

COMMISSIONERS APPROVAL

CHILCOTT *gc*

LUND *BL*

THOMPSON

TAYLOR (Clerk and Recorder)

Date.....August 22, 2006

Members Present.....Commissioner Greg Chilcott, Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Glenda Wiles

The Board met with Civil Counsel James McCubbin in regard to a discussion on the procedures for the evening meeting for Aspen Springs Subdivision. Also present was Planning Director Karen Hughes, members of the general public and the developers. James stated the Commissioners will need to take public comment.

Discussion of setting time limits for the public comment and the order of presentation took place. Also the need for the planning staff and civil counsel was discussed in order to evaluate any new information that might be presented. It was agreed if the new information is relevant and credible this subdivision will need to go back to the Planning Board for further public meetings. It was also noted if this subdivision was to return to the Planning Board for further evaluation, the developer will need to request an extension as the deadline for this subdivision is August 31<sup>st</sup>.

Commissioner Lund stated Senate Bill No. 116 allows the Commissioners to hear this and felt the subdivision would not need to return to the Planning Board. James stated the Ravalli County Subdivision Regulations are specific to the Planning Board and therefore the Commissioners would need to amend the regulations in order to change the process.

Commissioner Thompson reiterated that any new information needs to be pointed out by planning staff or legal counsel due to the amount of information the Commissioners are reviewing. James stated the planning staff will know the factual information of this subdivision and they will monitor any new information presented. Commissioner Thompson asked how they stop any new information from being presented; as an organization can designate a new person at each public meeting which would continue to delay this subdivision. James stated under the new law (SB #116), new information would require the subdivision to go back to the Planning Board for further review, but the return and review is a 'one shot deal'. In other words it can not go back and forth between the Commissioners and the Planning Board for several months. When it returns to the Commissioners, no new information can be accepted.

Commissioner Chilcott stated considering the sheer volume of what they have to review, how can they limit what input may come to them that is redundant information.

Commissioner Lund asked if the Commissioners need to hear certain people again since they have their written comments. James stated if they can specifically identify what is already in the record, then it is the Chairman's purview to control the meeting and acknowledge that you have received it. This might be difficult because the public could expand on what they have already stated in writing. It was agreed the Commissioners should and will accept public comment.

James indicated the Commissioners can be practical and limit the public's amount of time to speak to one to two minutes, particularly in light of the fact that they have spoken prior to this meeting and their comments are part of the written summary. James stated the public was complaining the developers had more time to talk. The Commissioners can also limit their presentation and rebuttal time helping to streamline the meeting.

Commissioner Chilcott felt the developer should have the right to comment following the staff report. An exception to this would be if no new information is presented and the Commissioners go into deliberation. Then the Commissioners should allow discussion with the developer before the condition(s) are proposed. The discussion should be directly with the developer or their agent. James stated the Commissioners can ask specific questions of the developer or their agent.

Attorney John Tabarachi asked if the development team will be able to address any specifics during the deliberations for the conditions proposed. James stated the subdivision regulations allow a summary argument for the developer before the conditions are imposed. The statutes allow 'give and take' before the conditions are imposed.

James stated he was given a letter from John Tabarachi this morning with new information and he will need to review this letter with the planning staff prior to the Commissioners review of it.

Kevin Burns asked about the public process; as it seems as though it is causing difficulties for Commissioners. He stated the Planning Board has given their directive and he thinks the Commissioners should hear all public comments, because the Commissioners decision should be based on what they hear, not just on what they read. He stated the Commissioners are reading and hearing things second hand. Therefore, he and other members of the public should not be limited in their time. He stated hearing and reading something is entirely different. Public comment should not be limited.

Commissioner Chilcott stated Kevin makes a strong argument for not having a Planning Board. He stated the Commissioners use the Planning Board for their eyes, ears, and expertise and they give broad-based representation for their decision making process. If the Commissioners have to read every thing then hear it again, it is a redundant process.

Commissioner Chilcott stated the Commissioners serve in a quasi-judicial role, not a political role. He stated the subdivision decision should be based on the merits of the information presented. He also stated the Commissioners must follow the law. He noted most of the letters presented by the public have an 'emotional content' and are not based on the six criteria provided in the law. Commissioner Chilcott noted their decision on the subdivision is not to be based on a 'popular vote', and many citizens think that the outcome should be based on 'who lines up on what side'. Commissioner Chilcott stated the subdivision must be based on the findings of fact. He stated the District Court Judges would not be too impressed with the Commissioners decision if it was not based on fact.

James stated the main issue to decide upon is how much time to give the public. It was agreed they will need to see how many people are present this evening's meeting prior to deciding how much time to give the public.

Commissioner Lund asked if they can make the speakers 'stick to the criteria' and not go on about issues that can not be reviewed on a factual basis. James suggested the Chairman address this prior to allowing comment. He stated they can be told to not be repetitive and to encourage them to address the criteria.

Curtis Cook asked if the Commissioners receive the same information from the public that are reflected in the minutes. Karen stated the minutes are a synopsis and the meeting is recorded. Curtis stated the synopsis is not any good.

Commissioner Chilcott asked how long the meeting should last. Commissioner Lund stated until 11:00 p.m. Commissioner Chilcott and Thompson stated the meeting should not go past 10:00 p.m. because it becomes hard to concentrate and focus after 10:00 p.m. Commissioner Thompson felt the subdivision is big enough that the Commissioners should allow a 3-minute time limit. And while the comments might be redundant and emotional, instead of being on point, the public needs the ability to talk.

Curtis asked if developer is limited to this amount of time. Commissioner Chilcott advised Curtis this is the Commissioners time to deliberate and public comment is not being sought at this time. James stated if the Commissioners need more time they can extend the public meeting to another night. It was noted that public comment being allowed at one minute in regard to the interim zoning was defensible based on the number of people present, but it is up to the Commissioners' discretion.

Commissioner Chilcott stated even if they are efficient in the public process they could be there for 20-hours.

Perry Ashby of Westmont Homes (developer) asked and stated they are changing their power point information on the subdivision. He asked how brief the Commissioners would like the power point presentation to be as they do not want to rehash information that is not needed. Commissioner Chilcott stated he would like to see the presentation address certain concerns from the public and to address the criteria. He stated he does

not want a sales pitch. Rather, the Commissioners need cold, hard facts, as that is what their decision is based on.

Perry asked if the Commissioners could decide on variances before the actual decision is made. Commissioner Chilcott stated they must go through the whole process before the variances are decided.

Commissioner Chilcott suggested they have the meeting between 6:00 p.m. to 10:00 p.m. and to do a head count to determine public comment time limits. He also asked if they were got to allow the 'pass of time from one person' to another. The Board concurred they would not, but they would allow time extensions to those that are experts. They also decided not to delineate the speakers into a pro and con group.

Commissioner Chilcott stated if they allow for time extensions, they need to determine what an expert is. James suggested an expert would be someone with specialized knowledge beyond what a general lay person has, and it should be based on experience and education.

Stuart Brandborg addressed the disproportionate amount of time the developer is given versus the citizen.

James suggested they receive all public comment, and then address any or all new information before board deliberation.

In other business the Board met with Fred Thomas, Insurance Agent of Record for the County. Fred introduced Laurence Hubbard, who is the President and CEO of the State Fund to the Commissioners.

The Board met with Environmental Health Director Theresa Blazicevich in regard to a discussion and decision on the underground tank removal at 3<sup>rd</sup> and Bedford Streets. Also present was Civil Counsel James McCubbin. She received two proposed work plans and cost estimates for the removal of the tank. Both contractors bid the services to include the closure notification to the State of Montana. The county would need to fill out the Notification to the State. It was noted the Youth Court building was recently purchased from Helen Bibler and James Parker and this underground tank was not disclosed by the sellers. It was also noted the sellers were aware of this underground tank and the necessary removal, yet they are declining any responsibility or liability. James stated Bibler and Parker have liability in this tank removal and they should be part of the discussion to move forward on this tank removal. He also stated there are some 'unknowns', such as size and possible leakage and they will not know that information until they remove the tank.

James stated he is inclined to have the previous owners do all of the notifications, hire the contractor etc., and if there is a leak it is their ultimate responsibility to complete the project. He stated the county should make the demand for them to do the work. If they do not take the responsibility, then the county needs to sue them and move forward on the

removal in order to satisfy the state and federal requirements. Commissioner Thompson stated this is a legal matter and he prefers to have James handle this issue.

Theresa stated the statute requires notification to the state within 30 days of any land purchase. James stated after he reviewed the form and the statute, the county needs to fill out the notification. Theresa stated the previous owner stated he emptied the tank but she prefers to check it herself. It was agreed Theresa will fill out the Notification of Underground Storage Tanks to the State while James prepares the letter to Helen Bibler and James Parker. He will attach that notification to the letter. Theresa will be the contact person but the Commissioners will sign off on the notification. Commissioner Lund stated she would call Helen and James and let them know the letter from James is forthcoming.

The Board met with Detention Supervisor Lt. Cathy Powell in regard to the new contract with Bitterroot Laundry. It was noted Civil Counsel has reviewed this contract and sees no problem with the language. Commissioner Thompson made a motion to have the Chairman sign this contract for the detention facility. Commissioner Lund seconded the motion and all voted "aye".

Commissioner Chilcott attended a Bitterroot RC & D Wild Land/Urban Interface Task Meeting during the afternoon hours.

The Board made a site visit to the East End Subdivision during the afternoon hours.

The Board held a public meeting for the Request for Commission Action on the Aspen Springs Subdivision in the Florence School Gymnasium. Minutes of that meeting are as follows:

**Ravalli County Board of County Commissioners  
Meeting Minutes for August 22, 2006  
6:00 p.m.**

**Florence-Carlton High School Gym, 5602 Old Highway 93, Florence, Montana**

**Public Meeting**

Aspen Springs (Wesmont Builders/Developers, Inc.) Major Subdivision and Eight  
Variance Requests

**1. Call to order**

**Commissioner Chilcott** called the meeting to order at 6:02 p.m.

(A) BCC

Greg Chilcott (Present)  
Betty Lund (Present)  
Alan Thompson (Present)

(B) Staff

Jennifer De Groot  
Benjamin Howell  
Karen Hughes  
James McCubbin  
Renee Van Hoven

**Commissioner Chilcott** led the audience in the Pledge of Allegiance and then discussed the general process of the meeting. Forty audience members indicated they wanted to comment.

2. **Board Discussion and Decisions on Time Limit Waiver Requests and Time Limits on Public Comment**

(A) Action on Time Limit Waiver Requests

**Sarah McMillan** requested eight minutes to speak as the attorney for Bitterrooters for Planning and the Florence Coalition Against Aspen Springs.

**Commissioner Thompson** motioned to allow the proposed time.

**Commissioner Lund** seconded the motion.

The County Commissioners unanimously approved the motion. (See Attachment A, Sarah McMillan Three-Minute Waiver Request)

**Candace Jerke** requested six minutes to speak due to her expertise as an appraiser for the State of Montana.

**Commissioner Thompson** motioned to allow the proposed time.

**Commissioner Chilcott** seconded the motion.

The County Commissioners unanimously approved the motion. (See Attachment B, Candace Jerke Three-Minute Rule Waiver Request)

**Shaen McElravy** requested five minutes to speak.

**Commissioner Lund** motioned to allow the proposed time.

**Commissioner Chilcott** seconded the motion.

The County Commissioners unanimously approved the motion. (See Attachment C, Shaen McElravy Three-Minute Rule Waiver Request)

**Steve Hall** requested five minutes to speak due to his role as co-chair of Florence Coalition Against Aspen Springs.

**Commissioner Thompson** motioned to allow the proposed time.

**Commissioner Chilcott** seconded the motion.

The County Commissioners unanimously approved the motion. (See Attachment D, Steve Hall Three-Minute Rule Waiver Request)

**Cheryl Holden Rice** requested five minutes to speak as a historian.

**Commissioner Lund** motioned to allow the proposed time.

**Commissioner Thompson** seconded the motion.

The County Commissioners unanimously approved the motion. (See Attachment E, Cheryl Holden Rice Three-Minute Rule Waiver Request)

**(B) Determination of Time Limits on Public Comment**

**Commissioner Lund** noted that the combined time of expert testimony would take 30 minutes and motioned to allow two minutes each for other members of the public. **Commissioner Thompson** seconded the motion. The County Commissioners unanimously approved the motion.

**Commissioner Thompson** thanked members of the public who submitted comments and those who addressed the subdivision and variance review criteria. He noted that the Planning Staff are public servants and the Planning Board receives no compensation for their efforts. He stated that the County Commissioners, the Planning Board, and Staff do not want to destroy the Valley. He said that one letter indicated someone in the County was paid off by the developer and asked that anyone with proof of bribery to contact the local authorities. He asked the crowd to act civilly.

**3. Staff Report of the Subdivision Proposal and Eight Variance Requests**

**Renee Van Hoven** gave a PowerPoint presentation. She gave an overview of the proposal compared to the six subdivision review criteria and listed recommendations from both Staff and the Planning Board. She stated that Staff has four outstanding issues that need to be addressed: the road connection to the south, relocation of 28 lots in the northeast of the subdivision, the identification and mitigation of impacts on the intersection of US Highway 93 and Eastside Highway, and mitigation of impacts on law enforcement. She described the variance requests and recommendations from Staff and the Planning Board. She entered the Staff Report into the record. (See Attachment F, Public Comments Received After the end of Planning Board Hearing Public Comment but Prior to the County Commissioner Meeting, Attachment G, Letter from William Ritchie, and Attachment H, Letter from Andy and Sarah Roubik)

**4. Public Comment on the Subdivision Proposal and Eight Variance Requests**

**A) Developer Presentation**

**Nick Kaufman**, WGM Group, Inc., noted that 77% of the County consists of public lands. He explained that one-acre tracts create sprawl without much infrastructure. He said that the Aspen Springs subdivision could have easily been one-acre tracts, but the developer chose not to go that route. He commented that the other towns in the County are generally near agricultural and

open land. He remarked that Aspen Springs can exist with this different pattern of development without diminishing existing agricultural parcels.

He claimed that Ravalli County generates 400 new households per year, 300 of them in the Florence-Carlton school district. He noted that Aspen Springs would create just 10% of the homes needed. He said that the median house price in Ravalli County is \$185,000, but the median income is \$40,000, which is not enough to afford the median house price. He noted that most of the property is on slopes less than 8% grade and there is very little slope restraint for constructing homes.

**Cam Stringer** said he is a hydrologist with Geomatrix. He noted that in order to receive water system permits, the applicant must receive water rights from DNRC. To do that, they must prove groundwater is physically and legally available and that there will be no adverse impacts on existing water right holders. He noted that for DEQ, the developer has to receive a permit for the public water supply system by demonstrating that there is adequate water supply available. He explained that there were test holes dug in 2005 and earlier in 2006. He said that the wells were tapping a deeper groundwater system than most in the Eight Mile area. He noted that today they did aquifer tests on one of the production wells. He noted that it has been pumping 400 gpm since 8:00 a.m. this morning. He showed a graph of drawdown projected over time. He also noted that they monitored pumping and observation wells in the area. He said the first well is a production well in the deep aquifer system. The second is a shallow observation well. The third was in the subdivision to the south, also in the shallow part of the aquifer. He said that in the pumping well, they saw about 71 feet of drawdown, which calculates out to about 84 feet of drawdown over 24 hours. He noted that the deep observation well 500 feet to the east experienced 10 feet of drawdown, which calculates out to about 14 feet over 24 hours. He said that another well about 450 feet northwest of the well had about 2/10 of a foot of drawdown, which will be about a half foot over 24 hours. He noted that the well south of the subdivision has not had any drawdown. He explained that transmissivity is a measure of aquifer productivity and said that about 2,000 square feet is available per day. He said that each production well can produce over 700 gpm. He concluded that adequate water is available and the most recent tests show that there is more water available than estimated previously. He also noted that the water is legally available and they will not have adverse impacts on senior groundwater right holders or senior water right holders.

**Ryan Salisbury** said that in layman's terms, there is adequate water available and information to prove it. He noted that the site does contain severe soils based on a NRCS soils survey, but after on-site investigations, the soil data collected to date shows they are not problematic. He noted that investigations on sewer and water issues were done prior to starting the project and DEQ submittals, which were made at the end of June last year. He showed an excerpt from a letter in which Sheryl Consort with DEQ noted that larger and more complex sites



involve more deficiency letters. He said that final water and sewer design cannot be approved by state agencies until the preliminary plat is approved. He noted the qualifications of the AdvanTex wastewater treatment system the subdivision will use and noted that it uses three levels of treatment. He said there are individual septic tanks outside each home, which lead to a recirculation tank for secondary treatment, and finally end at community drainfields. He asserted that waste which goes through this process becomes cleaner than when treated through municipal systems.

**Nick Kaufman** noted that Renee asked the developer to mitigate wildlife. He said that Aspen Springs is five to six miles from crucial elk winter habitat and the subdivision is on the western edge of elk winter habitat. He noted that the Gunshy Ridge III subdivision was approved although it was further into the winter range than Aspen Springs is. He noted that early in the process, they hired Dr. Joe Elliot, who recommended preserving open ridges and timber draws on the property for wildlife; in the subdivision submittal, the timber draw was left open, as was the ridge. He noted there is no evidence of elk use on the site. He listed how many acres of the development were open space, roads, parks, etc. He noted that the developer proposed to enlarge a park in the southeastern area of the development. He noted that Staff supported phasing because it produces predictability, reduces burden on Staff, and allows future impacts to be evaluated at one time.

He explained that the phasing variance is critical and allows Staff to look at the land and see how it will develop. He noted that DEQ and the Ravalli County Environmental Health Department will review each final plat for sanitary restrictions. He noted that each phase will be able to stand alone. He said that the site is not zoned and it complies with the Growth Policy. He also stated that one review instead of 33 reduces public costs.

He said that for Variance 2, the developer is proposing an emergency gate with breakaway posts based on meetings where neighbors voiced concerns about additional traffic through their neighborhood. He noted that the roads to the south of the subdivision are only 40-feet wide and do not meet County Standards. He predicted that usage of these roads could result in detrimental impacts to public health and safety. He noted that Aspen Springs sits above the southern subdivision. He commented that this variance will not interfere with zoning or increase public costs. He noted that it is supported by David Ohnstad, who agrees that bringing the majority of traffic to the controlled intersection at Eight Mile Creek Road and Lower Woodchuck Road is a more appropriate solution than creating another access through Riverview Orchards. He explained that David Ohnstad also requested the provision of developing an emergency access through Mountain View Drive when the level of service drops below a certain level.

He noted that he met twice with Sheriff Hoffman, but could not receive guidance for how to mitigate current impacts from Aspen Springs. He reiterated that the developer is proposing \$100 per lot to the Sheriff's Department and the Sheriff wrote a letter in response. He asked the Board for direction on how to mitigate the Sheriff's Department.

He said that Staff asked the developer to identify problems at the junction of US Highway 93 and Eastside Highway and mitigate them. He noted he had a difficult time receiving comments from MDT, but when he did, the director said there were no health or safety issues at that intersection. He asked the Board for guidance on what to mitigate. He concluded that the best thing it seemed to do was pay for a traffic study for that intersection. He also noted that Staff recommended removing 28 lots for wildlife. He said that leaving open space goes a longer way toward addressing and mitigating wildlife than removing some lots and leaving home sites on either side. He said that regarding a road connection to the south, the developer proposed an emergency access and the Road Superintendent agreed with the proposal.

**Ryan Salisbury** explained that the developer's original proposal was to pay a pro-rata share on a stretch of Eight Mile Creek Road because the proposed subdivision would only create 56% of the traffic on it. He noted that the Planning Board showed extreme interest in a latecomer's agreement. He commented that if an agreement can be reached, the developer will improve the paved portions of Lower Woodchuck Road and Eight Mile Creek Road to county standards. He noted that the developer has always proposed to bring the gravel section of Lower Woodchuck Road to County standards. He explained that the Planning Board recommended denial of the variance to use Mountain View Drive as an emergency access only. He noted that the road plans were reviewed by the County's reviewing engineer and he did not mention the need for another access. He stated that Lower Woodchuck Road is very efficient. He said that he sat down with David Ohnstad last week and he said that there is no need to have a road through Riverview Orchards as a primary access and agreed that an emergency barricade would be appropriate. He said there is no reason for the developer to improve Eight Mile Creek Road east to Mountain View Drive just because they will be utilizing an emergency access. He noted that Staff recommended a road connection to the south in the first phase, but if built that early, it would deteriorate due to lack of use. He explained that the developer's proposal is to construct the connection in Phase 21. He said that the reason there is no traffic study at US Highway 93 and Eastside Highway is because there is no safety hazard there, although there is one on the Eight Mile Creek curve. He noted that there will be impacts at US Highway 93 and Eastside Highway, but the developer has proposed mitigation with a traffic study and will pay his share of mitigation if there is a problem. He noted that MDT recognized Aspen Springs' impact on the roundabout and the developer has offered to pay about \$88,000 for its construction. He also noted that the

developer will have to pay \$371,000 to bring Lower Woodchuck and Eight Mile Creek Road to county standards, per a cost estimate a year ago.

**John Tabaracci** said he submitted a letter to the Board and can answer any questions on legal issues. (See Attachment I, Letter from John Tabaracci)

**Nick Kaufman** discussed effects on local services and public health and safety. He noted that the County's own economic advisors said that 300 new homes were needed per year in the north end of the Valley, the very place that lacks ability for the Sheriff's protection. He noted that the developer offered \$300 per lot mitigation to the school system and \$100 per lot mitigation to the Sheriff's Department. He commented that the developer also offered to improve external roads subject to a latecomer's agreement. He noted that Aspen Springs provides only 10% of growth in the north end of the Valley per year. He said that the development team feels they have done as good a job as they can do and asked the Board to help them identify what else they can do to mitigate public services. He said that public health and safety issues such as water, sewer, and roads were addressed earlier and that the internal roads will meet AASHTO standards.

**Perry Ashby** said that there has been a movement to limit lot size to one unit per two acres. He showed a PowerPoint slide with a scale drawing of Aspen Springs with 671 units on 392 acres and a grid with 671 dwelling units on 1,342 acres. He said that the alternative to Aspen Springs is a grid, although it is not good planning because the comparative land consumption is high. He said he has spent three years, money, and knowledge on this subdivision. He said that golf courses have embraced this concept for 75 years. He noted that instead of fairways, his subdivision will have open space. He said he is a pioneer, but his subdivision could be an exemplary land design.

**Commissioner Chilcott** noted one more expert witness request was submitted.

**Karen** clarified that the preliminary plat maps do not include minor adjustments made throughout the record. She noted that one change was the expansion of a public park.

**Chris Linkenhoker** requested six minutes to speak as an expert witness due to his experience in the USFS.

**Commissioner Thompson** motioned to allow the proposed time.

**Commissioner Lund** seconded the motion.

The County Commissioners unanimously approved the motion. (See Attachment J, Chris Linkenhoker Three-Minute Rule Waiver Request)

#### B) Members of the Public

**Sarah McMillan** said she is an attorney representing Bitterrooters for Planning and Florence Coalition Against Aspen Springs. She noted that the Board must

act in the public interest. She asked the Board to take the recommendations of Staff and the Planning Board and deny the subdivision in part due to insufficient information. She noted that the Planning Board asked the developer for more time and information, but was refused, so they were forced to make their decision. She alleged that the process has been irregular and the County has failed to comply with laws and regulations. She said that there are two separate determinations for subdivision applications: one is completeness as defined in 76-3-604 (1)(a), MCA; the other regards sufficient information as defined in 76-3-604 (2)(a), MCA. She said that Staff has said the application does not have sufficient information and it should not have been passed on to the Planning Board. She said that the Planning Board should not have been put in a position to make a recommendation to the County Commissioners. She suggested that the sufficiency determination for this subdivision was never made. She also noted that the public was repeatedly instructed to keep their comments to the six subdivision criteria, but they should have been able to speak about all of Section 3-2-7, not just Section 3-2-7(a). She commented that public comment was closed and reopened multiple times, causing a problem for meaningful public participation. She said that the developer has touted this project as Smart Growth, but said that this project is the antithesis of Smart Growth. She noted that Smart Growth includes time, intention, and resources to restoring community vitality. She said that it should be transit and pedestrian-oriented with a mix of housing, commercial, and retail areas. She said that this development as large as a town does not have things available to other towns such as government, schools, hospitals, police, etc. She said that the Board can only approve the subdivision if it meets the standards in State Law and Subdivision Regulations and if it is in the public interest. She said that the intent of variances is for minor deviations when strict compliance to the regulations would cause undue hardship. She said that most variances applied for are to circumvent and subvert the intent and purposes of the regulations. She noted that FWP expressed concern with elk and mule deer winter range; she said someone in this audience has seen elk in that area. She said that there is a two-tier analysis to review variances. She noted that Section 8-1-3, says that the Board has to determine if an undue hardship is present and then review the variance by Section 8-1-7, which lists specific criteria. She said that this evening was the first time she heard an attempt by the developer to argue the six criteria. She noted that in the phasing request, the developer requested extra time to allow him an opportunity to react to the economic changes and Mr. Tabaracci noted that phasing lessens the impact of houses coming on the housing market. She noted that if 400 new houses are needed per year, there is hardly a housing glut.

**Candace Jerke** said she is an appraiser for the State of Montana. She agreed that there are about 400 homes built in Ravalli County every year. She noted, however, as she appraised Florence and part of Lone Rock, that the amount of new homes in that area has never exceeded 80, even in a busy year. She noted that there are a lot of vacant lots in the area, but there is not a need for 300 new homes unless people from Missoula move down. She estimated that a home

would cost \$170,000. She noted that in the past few years, the state legislature has kept taxes down on most homes even though their values rise. She estimated that \$284,100 will go to the School District each year at full buildout. She said that the additional 534 students means the School District will need 21 new teachers, but that tax money will not cover the cost of a building or teachers. She also noted that other monies will only pay for  $\frac{3}{4}$  of the cost of a Sheriff's deputy. She asked who would buy homes in Aspen Springs and said that they are not affordable housing. She noted that if the developer sold each lot for \$66,000, the gross earnings would be \$42 million and profits would equal \$24 million. She reported that in Aspen Springs, lots take up about 40% of the area, streets consume 17%, sewer systems use 12%, parks use 3%, and common areas take up 29%. She noted that some of the property has high grades, translating to higher building costs and more difficult maintenance. She predicted that there will be erosion problems. She asserted that soil samples had not been submitted. She said there are some areas in the subdivision that are decent for development, but the common areas were created because they were located in hard-to-develop areas. She noted that if there were 5,866 car trips per day divided by the 12 hours when people drive, that would equal 488 trips per hour, 40 trips per minute, and about one car every second.

**Shaen McElravy** said he is a Stevensville resident. He asked how many people wanted to preserve culture, privacy, and tax dollars by limiting subdivisions to one parcel per two acres. (Approximately 80% of the audience stood in agreement with his statement.) He asked the Board to unanimously deny the subdivision and noted that approximately 5,300 signatures were gathered to limit subdivisions. He said that even County Attorney George Corn said that we need emergency zoning. He said that thousands of people have said that the proposed subdivision is not in the public interest and the public wants to protect the rural lifestyle of two to ten acre tracts. He said that the subdivision does not meet the criteria of the Subdivision Regulations and the Subdivision and Platting Act. He remarked that the project's sewer permits were denied twice and the developer has failed to state proposed drainfields and provide soil samples at each drainfield. He stated that the developer has not yet obtained water permits from the DNRC. He said that costs associated with effects on local services will be passed on to taxpayers. He said that the development will be going against design and development standards. He noted that the developer has refused to pay for the roads. He said that the development is in the winter elk and mule deer range. He noted that the Sheriff said his office is overburdened and Eastside Highway cannot handle 5,000 extra cars a day. He said that Subdivision Regulations Section 8-1-11 only allows the County to grant a permit for a variance that expires 30 months after the date of approval or earlier unless the final plat is filed. He also noted that the County cannot grant a phasing variance. (See Attachment K, Letter from Shaen McElravy)

**Steve Hall** said he lives in Florence and was asked by one individual to tell the County Commissioners that the people are scared. He said that road safety is a

huge issue, as is water degradation. He said that polluted water from the subdivision will affect the current water system. He said that the subdivision on which Aspen Springs is modeled is called Hidden Springs. He explained that Hidden Springs has about 1,400 homes on 1,600 acres, along with a charter school. He also noted that home prices in that subdivision start at \$300,000 to \$400,000. He said that the developer has had years to present a complete application, but the County Commissioners only have a few days to make a decision. He said that he spoke with someone at the Volunteer Fire Department who thought the developer was going to build them a new fire station. He noted that this subdivision does not have charter schools, expensive housing, or a new fire station. He said that this out-of-state developer is trying to make a quick buck and costing the rest of the people a lot of money. He noted that the developer said that there is no problem at the junction of Eastside Highway and US Highway 93. He asked why the developer waited until the last minute to establish some sort of communication with MDT. He predicted that school safety and road safety will be a problem. He said he moved here for the elbow room, but now has fears about roads, water, and a connection road through an area without an adequate easement. He asked that the subdivision be placed next to infrastructure or US Highway 93.

**Cheryl Holden Rice** said she lives in Eagle Watch, but has roots in the Florence-Carlton area. She said that she has been interviewed twice so she considers herself a historian of the area. She said that the Bitterroot is a natural, cultural, historic community with a healthy, lasting foundation where impact matters. She said that this valley floor is four miles wide on one end and fifteen miles wide at the other, making it too limited to support mega subdivisions. She noted that the original Eagle Watch subdivision had covenants restricting one house per two acres. She said she paid \$42,000 in 1989 for a 4-bedroom house on 2 ½ acres. She noted that by 1995, market value had risen to \$195,000. She invited the Board to drive through Eagle Watch or other neighborhoods with larger lots. She said that her ancestors have lived here for a long time and donated land to different religious, school, and civic organizations. She said the Sheriff's Department, Volunteer Fire Districts, and emergency services have strong hearts and giving hands that are full. She said that the Bitterroot River and its valley's quality of life is precious and at risk. She said that on October 4, 1891, the U. S. government ordered the Salish out of valley; the next day, their homes and farms went up for auction. She asked what kind of a legacy we will leave.

**Chris Linkenhoker** said he lives in Hamilton, was a former career employee with USFS, a professional forester certified in Washington and Montana, and a NEPA coordinator for timber sales in Oregon. He also noted that he was a regional analyst for fire recovery projects in Oregon. He explained that the National Environmental Policy Act (NEPA) passed in 1968 has been used by counties and municipal governments to protect projects from having huge negative environmental impacts. He noted that it is required for all federal

projects and any other projects which use federal dollars. He suggested that the Board talk with their legal staff about NEPA. He said that NEPA requires analysis of direct, indirect, cumulative, long-term, and irretrievable impacts on the environment. He noted that over history, many projects ended up in environmental disaster years after implementation. He said that Aspen Springs is precedent setting in nature and will allow for exuberant movement of the developer. He noted that these indirect cumulative affects must be addressed and could have significant environmental impacts, which have not been analyzed despite great efforts by Staff. He said this decision is the most important valley decision made in the last 200 years. He noted that he has heard others say that nothing short of divine intervention can stop development. He countered that people can and do change the future. He told the Board that they need desired conditions for the valley's progress because currently, they do not have a large picture of where they want to go. He said that for hundreds of years, people in Flathead lived in this valley. He said that for the last 200 years, ancestors of those in this room lived in the valley and worked the land, dying with a vision for their children. He said that the Board does not have the right to violate a tremendous sacrifice by turning the valley into a concrete jungle or replica of Los Angeles, CA. He asked the Board to deny Aspen Springs.

The Board took a five-minute break.

**Alan Baumberger** said he lives off Eight Mile Creek Road and is concerned about another access through Mountain View Drive. He said those roads are private and the developer has not approached the homeowner's association in the area to discuss the matter. He said he recently called the Road Department and asked about dust control, stop signs, and patching roads where the developer wants to add more vehicles. He said that if this subdivision is approved, the developer will want to receive access through all the roads to the South. He noted that the County cannot even afford stop signs, much less the cost of maintaining these roads.

**Richard Uedel** said he lives in Florence. He noted that the valley is made up of many little towns, each with their own intricate personalities. He said he takes offense that people come in and can change a whole personality of our community. He said that if this subdivision is approved, the phrase "The Last Best Place" should be given to another state.

**John Carbin** said he lives on Eastside Highway and moved from Valley View. He noted that today's Ravalli Republic had an entire editorial page full of reading on Aspen Springs. He said that this difficult decision is a watershed for the future. He hoped that this decision will be one small step for Florence and a huge step for keeping Ravalli County unique and attractive. He said that during Renee's presentation, she used the phrase "non-significant" many times in reference to effects of the subdivision. He noted that an expert from the USFS used the word "cumulative." He noted that there will be cumulative effects from

vehicles in Aspen Springs, Legacy Ranch, and the Daly subdivision. He said there were not any prior comments about air quality.

**Glenn Kinsley** said he lives south of Stevensville in Pine Lake Acres. He noted that the County's growth has historically been linked to agriculture, (inaudible), and commercial industries. He said that communities rose to service those needs but since the 1970s, Ravalli County has seen periods of rapid growth followed by stagnation. He noted that developments near towns should have more houses than developments in the sticks. He noted that growth in Ravalli County is not fueled by internal economic factors; growth in Missoula, on the internet, and in the economy contribute to Ravalli County. He noted that the County is a nice place to live and anything that takes away from it makes his property values go down. He said that dropping a community in on a bare parcel with no infrastructure makes no historic, economic, or aesthetic sense. He said that the County needs a better mechanism and a Growth Policy consistent for everyone. He noted that two acres per parcel is only an emergency voting measure.

**Pam Carlton** said she lives in Stevensville and travels Eastside Highway daily. She said there is a lack of information on air pollution that will be generated from the additional vehicles from Aspen Springs. She noted that there is currently a long wait at Eastside Highway and US Highway 93. She said that the only way for the Board to evaluate the effects the subdivision will have on public health and safety is that it will have negative effects. She also noted that the Board needs to analyze air quality during construction because homes will be covered with dust.

**Cheryl Harkin** said she lives in Florence and growth and traffic are inevitable. She noted that north of Florence, many subdivisions are being created. She remarked that Wesmont has offered \$2,000 for a traffic study at the intersection of Eastside Highway and US Highway 93. She noted that Florence has to take word of people who stand to benefit financially from this project. She said that the population of Ravalli County has increased 59% in the last 15 years; traffic accidents on US Highway 93 increased 61% over the last 15 years. She noted that traffic accidents on Eastside Highway increased 171% in the last 15 years. She said her statistics were from MDT. She noted that traffic accidents on US Highway 93 have been proportionate to growth, but accidents on Eastside Highway have been disproportionate. She noted that although the developer has offered money for a study, studies do not solve problems, just confirm their presence. She asked the Board to request studies and objective planning to find solutions. She asked the Board to plan for the future and not make mistakes today. (See Attachment L, Letter from Cheryl Harkin)

**Donald Morton** said he lives in Stevensville and supports Aspen Springs. He noted that most people talk like the subdivision will happen next year or next month, instead of taking planning into account so services and public safety are not adversely affected. He noted that 10, 20, and 30-lot subdivisions happen up



and down Eastside Highway all the time. He noted that people are against the large subdivision, even though the houses are spread out over a long period. He said that the septic system will create 97% or 98% pure water. He also noted that the Ravalli Republic is locally owned.

**Lee Kierig** said he is an architect from Hamilton. He noted that the valley is bounded by two mountain ranges and this space can only support a sustainable community of so many people. He said it is unknown how many people this valley can support. He noted that although he is not opposed to this subdivision, it is a hard ringier of others to come. He asked at what point the valley will be saturated and when we will deplete our natural resources.

**Jon Meredith** said he lives near Mountain Meadows in Florence and also works in the Florence area. He noted that Mountain Meadows was approved for 13 houses on 14 acres with 13 variances last year. (Staff Note: Mountain Meadows Addition Subdivision was approved for 32 lots on 23 acres. Five variance requests were also approved.) He compared the subdivision to a little Luna Vista. He noted that density was the only real problem neighbors had with Mountain Meadows, but developers and land use planners who "sold" them the subdivision said that cluster housing is fine along the US Highway 93 Corridor. He read what the developers told him: "Cluster housing should be allowed along the corridor and larger parcels should be the norm further out." He reiterated Steve Hall's comments that cluster development along US Highway 93 is one thing, but the Valley turning into the Denver and Colorado Springs area is something else altogether.

**Margaret Hammerberg** said that things occurring now may make an impact on the Board's decision on this subdivision. She noted that one large problem is traffic accidents. She noted that she lives in a subdivision and her home faces Eight Mile. She said that about three to four people per year come down into a ditch in her front yard. She noted that the last person came down into the ditch, took out part of an electric pole, came over her driveway, landed on the highway, threw debris in another ditch in her yard, and left the scene. She said it took an hour and a half for a state trooper to arrive and no one from the Sheriff's Department was available. She noted that the proposed roundabout will not affect what happens at her property.

**Sandie Frick** said she lives on 80 acres on Lower Woodchuck Road adjacent to Aspen Springs. She commented that the density is unacceptable for this area and water is not abundant. In fact, there are great possibilities of the water table lowering. She noted that the extra traffic is horrific. She remarked that schools are overcrowded and law enforcement is lacking. She stated that variances should not be allowed, but the subdivision should meet all requirements. She argued that Variance 1 should not be granted because the developer is trying to stick in the subdivision before rules change. She said that Variance 2 should be denied for safety reasons. She noted that the gas line setback requested in

Variance 3 is a public safety issue. She said that in Variances 7 and 8, the developer is requesting that the public bear the costs of creating the roads.

**Scott Bloom** said he lives in Stevensville and is a 25-year resident of the valley. He said that he is in the construction industry and supports responsible growth. He noted that others spoke about 5 and 10-acre parcel sprawl. He said that if this subdivision is approved, this will be the beginning of high-density sprawl. He compared the subdivision to a town and said its only government will be a Homeowner's Association. He predicted that the subdivision's impact on traffic will compound existing problems. He noted that the Sheriff testified that he cannot respond to the northern part of the valley. He explained that the subdivision scared the daylight out of the Florence-Carlton School District. He said that the subdivision "town" will consist of commuters traveling 50 miles to Missoula every day to work. He concluded that this subdivision can happen, but not in this location. He asked the Board to deny the subdivision due to its inappropriate location.

**Allison Kinney** noted that a survey of needs assessment was produced by the Montana State Department of Health and Human Services. It identified risk and protection factors from elements in the community and positive or negative experiences coming from those factors. She reported that young people in Ravalli County, grades 8, 10, and 12, have identified risks of transitions and mobility of 49%, 50% and 53%. She said that children in Ravalli County use substances at a greater rate than other students in the nation. She noted that parents in Florence travel 25 minutes to work, 5 minutes longer than the natural mean time. She reported that the National Institute on Drug Abuse released statistics yesterday that Ravalli County is among the top 15 identified communities where alcohol dependence in persons aged 12 years old and older is an issue. (See Attachment M, Alcohol Dependence Among Persons Aged 12 or Older and Needs Assessment Drug Free Community)

**Sharon Schroeder** said she lives on Lower Woodchuck Road in Florence. She said she does not begrudge the developer for the money he stands to make, but said that growth needs to be directed and defined; it is directed by the Subdivision Regulations. She said she had concerns about Review Criteria 3 and 6 because they can be defined subjectively. She noted that the effects on the Florence-Carlton School District will be huge. She explained that if half of the households in Aspen Springs have two children, that would create 671 new students in the School District. She commented that \$300 is not an efficient mitigation fee. She noted that the Sheriff has not negotiated any kind of mitigation and since the north end of the valley is in the fringe, he is justified in saying that it is hard to provide adequate service. She asked the Board to consider Subdivision Regulations Section 3-2-7 (a) (3), which says that the subdivision should be in the public interest. She also noted that the Board may not permit a variance for lot size. She concluded that the subdivision is a good model in the wrong place.

**Grace Wilson** asked what kind of guarantee has been given that the housing in Aspen Springs will be affordable 10 to 15 years from now. She noted that the developer mentioned the septic systems will be put in with each phase, but that money for roads, schools, and police will not be paid up front. She asked who will be paying for those improvements up front. She hoped that the developer does not find out about adverse effects on present wells until too late; she asked who will foot bill to dig deeper wells if there are adverse effects. She said that the County cannot keep the current roads graded and does not know how they will be able to upkeep more roads. She asked how the emergency barrier will be removed in a timely fashion during an emergency. She said that some things cannot be decided on fact alone; the way of life and values have to be considered as well.

**Kathleen Driscoll** said that although the County Commissioners spent time talking about impact fees, they have not implemented them. She noted that impact fees will cost the customer more money because the developer just passes the cost along. She also noted that the construction workers should receive higher pay. She said that all the other entities in the process make money, but asked where the taxpayer makes their money. She asserted that the Board has to go back to a simpler problem. She said that when studies come back from school districts, they need to put that into the whole organizational process and go back to basic facts.

**Marilyn Owns Medicine** said she lives off Ambrose Creek Road. She noted that many of the public have tried to understand how to participate in this process, but feel frustrated at this point. She noted that the public was told they could not talk about their concerns or the regulations. She said that although the County Commissioners are limited in what they can consider, the public needs an opportunity to voice their concerns. She said that earlier they discussed whether the rules allow approval of this subdivision. She said that this process is about protecting the participation and property rights of the public. She commented that this subdivision is not in the public interest. She asked the Board to interpret laws and decide about variances in the people's favor. She commented that the environmental assessment is not signed or accurate. She also noted that the developer said he submitted new information this morning on which the public could not comment.

**Gayl Knox** said she is from Corvallis and feels that someone from the outside is trying to take over the valley. She noted when people talk about effects on local services and public health and safety, she cannot help but think about the other countless developments that have already been approved. She noted that cumulatively, they create a lot of traffic and air pollution. She said that on the hill where she lives above the valley, she can smell air pollution when it is there. She noted concerns about adding trouble if this subdivision is approved. She asked the Board not to approve Aspen Springs or any other major subdivisions

until they have a format for progressive planning so they do not make irretrievable decisions.

**Gary Haas** said he lives and works in Florence. He asked where the people will work. He noted that when that much water is taken out of the ground, there will be sinkholes created and water is in limited supply. He argued that Montana does not have enough water to support jobs. He noted that some water from the Bitterroot River has been sold to other places and the DNRC is still trying to figure out who owns the water. He commented that Butte just spent \$5 million to upgrade its water supply for a macaroni plant. He noted that water is the lifeblood of Montana. He noted the developer said that groundwater would be recharged by the septic system, but he would not want to drink that water because effluent would be recharging the aquifer. He noted that the Sheriff cannot protect everyone in the County at the present time.

**LaRue Moorhouse** said she lives in Victor. She commented that Mr. Morton said the houses in Aspen Springs will take a long time to plan for and build. She noted that Mr. Morton has the next largest subdivision to go before the Board. She compared Aspen Springs to places in California such as Fresno, Irvine, and Orange County. She asked the Board to enforce the regulations and consider the true impacts on water quality and quantity. She also listed issues with the school district, the Sheriff, and air quality. She noted that Smart Growth is about density near infrastructure. She expressed concerns that Aspen Springs will make Ravalli County an extension of Missoula County.

**Marcia Bloom** said she lives in the Lone Rock Area and the location of the subdivision is inappropriate. She noted that police protection should be crucial, but the Sheriff said his staff and budget are not adequate to protect the development. She noted that added traffic will be an inconvenience and danger to public health and safety. She noted that the Florence-Carlton Superintendent said an influx of new students from Aspen Springs will create a problem with overcrowding. She noted that winter range elk habitat will be impacted and the possible reduction of elk habitat should be crucial to the Board's decision. She explained that the infrastructure to support a development is non-existent and Smart Growth should be adjacent to an existing town, not in the middle of nowhere. She said that the proposed low-income housing is debatable, but noticed that gas prices to travel to Missoula would be inhibitive to living in the subdivision. She concluded that these items should be a no-vote. (See Attachment N, Public Comments from Marcia Bloom)

**Roger Linhart** said he supported the subdivision as mitigated by the Staff Report except for conclusions about elk habitat because he has not seen elk in the eastern part of the lot. He said that as far as low-income housing is concerned, that is what he does for a living and more is needed.

**Bill McSpadden** said he lives in Bitterroot Grand Estates. He noted that over the past 10 years, it has been more difficult and dangerous to get out onto Eastside Highway. He said that he has not heard about the Highway 93 traffic study, but he has lived in large cities and noted that as traffic increases, people are not as courteous. He said that many places have roundabouts to keep traffic continually moving. He said that will create a problem because there will be no gaps for people to pull out onto the Highway. He concluded that the roundabout might be more of a problem than a solution.

**John McGee** said he is the Superintendent of the Florence-Carlton School District. He explained that over the past year, the School District has been studying what growth is doing to its schools. He noted that in 1995, the school was overcrowded and they tried to deal with it by passing bonds. He said that today, the schools are still overcrowded and they asked for new funding. He noted that TischlerBise did a study to determine how growth affects the school. He noted that just to fund capital improvements, the cost would be \$10,418 per student. He explained that part of his job is to figure out how to fund new buildings. He asked if the schools should be funded by impact fees on new houses or asking developers to pay their fair share to help the district. He said he met with a developer this week who is offering \$5,000 per lot to the schools for mitigation and hoped that there are more people like that.

**Dave Curtiss** said he is the project manager of Aspen Springs and has 35 years of experience. He said that there have been 75 soil test sites dug and sent to DEQ. He also said that most of the people who testified this evening have already established roots and asked how their children and grandchildren will afford to live in the valley. He noted there was confusion about recharging the aquifer and said that on smaller tracts with both a well and a septic system, septic systems recharge those aquifers.

**Tracey Turk** said she is a water rights consultant in Stevensville. She noted there were multiple comments on water rights and water quality, but the state has agencies that use stringent review criteria to analyze proposals. She explained that if the developer cannot meet those requirements, the developer will not receive a permit. She said that the current population in the valley is causing the widening of US Highway 93. She noted that Sunset Bench tracts were platted 100 years ago and people living there cause impacts to the community, as she did when she moved here with her son. She asked the Board to look at the overall picture and see that people are protected. She argued that regulatory agencies review subdivisions well enough.

**Christa Burns** said she lives in Florence and works for the Florence-Carlton Schools. She said she was concerned about the general welfare of the students at Florence-Carlton Schools. She stated that the School District is the most crowded school in the state of Montana by students per square foot. She noted that the District cannot even add 400 more students. She said that most families

will need two incomes and have to work in Missoula to afford low-income housing. She asked where students will go after school until their parents come home and noted that there are no after-school programs for students. She concluded that there is a large impact to the school and community from subdivisions.

**Linda Cardenas** said she lives in the Lone Rock School area and recommended denial of the subdivision. She said that the applicant still has not mitigated public health and safety issues regarding traffic and law enforcement. She noted that the applicant has not obtained DEQ approval for wastewater treatment or a permit for their water supply system. She commented that the developer stated he thinks he has sufficient water for the subdivision's needs. She asked about the water needs of others in the area. She asked why the developer only started comp tests this morning. She said there was too much uncertainty to warrant gambling by allowing build-out over 20 to 30 years; she suggested that the developer bring through new phases every four years. She noted that the Board has a legal obligation to comply with the Subdivision Regulations and not circumvent or undermine them. She commented that the developer has not provided necessary facts to support legally granting any of the eight variances. She urged the Board to take a precautionary approach and deny the subdivision. (See Attachment O, Speaking Notes from Linda Cardenas)

**Nadine Wisniewski** said she is a child psychologist from Florence. She said her main concern is school overcrowding. She asked the Board to consider the school a fragile environment that requires adequate mitigation. She noted that even if \$300 is considered an appropriate donation in other communities, it is not appropriate in this school system due to its fragility. She said that in order to truly protect the school, mitigation will have to be greater. (See Attachment P, Letter from Nadine Wisniewski)

**Matthew Piedalue** said he lives off Ambrose Creek Road. He noted he was tired of hearing the developer say that only older people are opposed to the subdivision. He said he is a young person who wants to own a home, but he would never buy a home in Aspen Springs. He said he wants to have faith in local government and asked the County Commissioners to listen to the people, look at all regulations, and only allow this subdivision if the developer has met every criterion.

**Robert Memmer** said he lives on Eastside Highway close to the proposed roundabout. He said he felt the developer has met all the criteria. He agreed that we will have problems with police protection and the schools, but those problems exist now. He noted that since three bond levies failed, there is not a proposed solution to the school. He noted that the issue boils down to if the County Commissioners think the proposed mitigation is sufficient.

**Jim Rokosch** said he lives in Stevensville and noted that the six criteria for subdivision review are not the only subdivision review factors. He asked the Board to remember that the basis of the criteria is to determine if the subdivision is in the public interest. He asked the Board to see if the proposal meets existing regulations and is consistent with zoning and the Growth Policy. He said that the six criteria are useful mechanisms in considering impacts. He said he hoped the County Commissioners reviewed all the testimony and documentation presented to the Planning Board and noted that the process is inefficient. He noted that the true determination of agricultural water facilities is not before the Board because the state has not yet made that decision. He remarked that in a recent Supreme Court case, a decision was made that pre-stream capture impact on surface water and surface water right holders must be considered. He noted that surface water on the Bitterroot River has not been adjudicated. He recommended denial of the subdivision.

**Curtis Cook** said he is an attorney and lives in Hamilton. He noted that he opposes Aspen Springs and the proposed variances are almost ridiculous. He explained that variances are only supposed to be for a hardship or things peculiar to this subdivision. He also said that developers cannot use variances to affect lot size or density. He noted that the proposed phasing is not in line with phasing provided for in the Subdivision Regulations. He explained that issues with the school are not enough reason to deny the subdivision unless additional issues exist. He said that in this case, there are road problems, law enforcement problems, and other problems in addition to school problems. He noted that new matters were brought up tonight, including soil samples and well pumping information. He indicated that new information might require the subdivision to go back before the Planning Board.

**Scott Hollenbeck** said he is a realtor who has represented Perry Ashby for 11 years. He commented that Perry keeps his word and is honest and fair. He asked if the County was going to plan for growth or allow it by a patchwork of 10, 20, or 30 houses at a time. He noted that the TischerBise study reported that the County needs 300 new homes in this part of the valley; if the County does not approve affordable places, young people will go elsewhere or rent. He said that everyone deserves the ability to buy a home. He said that since this subdivision will be built out over 30+ years, it will not have nearly the impact of other subdivisions that are approved in this community and others.

**Lee Warring** said he has owned a ranch on Eastside Highway and US Highway 93 since 1960. He noted that since then, tremendous traffic problems have developed. He said that this project will push traffic over the edge. He contended that there is no way in the world that the intersection light in Florence could ever handle the oncoming traffic from this development or even other smaller developments. He noted that the County is not ready to build roads necessary to handle this situation. He commented that the developer will have to

find a way around this light or Eastside Highway somehow because there is no way it can handle this traffic.

**Marina Weatherly** said she lives in Stevensville and helped to develop three different growth policies that were not adopted. She hypothesized that if the work had been done sooner, the Board would not be looking at this subdivision. She said that Aspen Springs is called Smart Growth, but is not. She said that if another subdivision of equal size is placed next to Aspen Springs, they will no longer have open space that they are trying to achieve. She suggested that the Planning Board educate developers wanting to do projects in the Valley with what is appropriate and inappropriate. She said that the terms "low-income" and "affordable housing" have been tossed around, but they do not have the same meaning. She asked for whom these houses are affordable and noted that she can barely afford her home now, much less one in Aspen Springs. She said that there has been no demonstration of hardship for these variances except loss of financial gain.

**Debra Wetherelt** said she is a Registered Nurse who lives off Eight Mile Creek Road. She asked for assurance that there will be adequate emergency response time for police, fire, and health services.

**Susanna Pyron** said she lives in Florence and would not want to face this opposition if she wanted to do something with her land. She conceded that people are going to move to the valley and the County will have to face it. She noted that in Dry Gulch, there are many houses that do not have septic systems as sophisticated as the one proposed. She noted that cluster housing conserves natural resources like water and diminishes maintenance for the roads. She said the development will allow the community to put a neighborhood watch into place and use carpooling to mitigate traffic. She said that the junction at Eight Mile Creek Road and Eastside Highway is already being dealt with by MDT. She suggested that someday Eastside Highway will run all the way to Missoula.

**Cynthia Slaughter** said she moved to Florence from the state of Washington. She asked who carries the liability if there is a problem with the natural gas pipeline during or after construction. She noted an accident in Bellingham, WA, where children were killed and another more recent gas pipeline accident. She said that the types of inspections vary and the developer could only provide minimum inspections if he chose. She said that Sequim, WA, had to move an elk herd because a community grew around it.

**Harold Glass** said he lives in Stevensville and asked the Board to address the difference between what the School Board is requesting and what the developer has offered. He asked how the School District will fund new facilities. He noted that the \$100 donation per lot to the Sheriff's Department will not properly mitigate that situation. He noted that the proposed subdivision is far from



ambulance and fire services. He proposed passing stricter laws and requiring payment from the developer up front.

**Matthew Taylor** said he is the President of the Eagle Watch Property Owner's Association and is the youngest resident in the oldest subdivision in the valley. He acknowledged that Perry Ashby built his home and he had a good experience with him and with his house. He noted that regarding effects on the natural environment, recently someone in the Eagle Watch area had their well go dry. He said that one 24-hour test cannot predict results of decades down the road. He said regarding effects on public health and safety, as a consultant with the University of Montana's School of Education, he learned that the more crowded per square foot that a school is, the more bullying and violence occurs. He said that the people who live here are here to protect the valley – the way it was, is, and can be. He said that the County Commissioners hold the future in their hands. He conceded that Perry is a pioneer, but noted that pioneers can lead people astray. He asked the County Commissioners to vote for the future of this valley.

**Warren Kollman** said he used to live in Kent, Washington. He noted that the school district there was highly ranked. He said he had to force the Florence-Carlton School District to give his children a proper education. He noted that although he does not want someone telling him what to do with private property, he is concerned about the effects multiple subdivisions will have on education. He said that the biggest export in Montana is kids.

**Will Zeil** said that other testimony tonight identified problems like the crime rate increasing, traffic increasing, and work load on schools increasing. He noted that there was never marvelous law enforcement or road maintenance in Florence. As far as protecting heritage, he said he cannot imagine a mother not being able to distribute her homestead if she desires. He asked that the Board give the subdivision approval if it meets the criteria. He said that the Board has to protect everyone's rights and the right of property ownership.

**Rod Israel** said he lives in Florence and is not in favor of Aspen Springs because of its proposed density. He noted concerns about water and drainfields. He asked if the County will plan for Ravalli County or if developers will plan the County in a piecemeal fashion.

#### C) Close Public Comment

**James** noted that the Board has received additional written comments this evening. He suggested that the Board take a break to review the comments before deliberating. He also suggested that the Board discuss if any of information presented tonight will be considered new information. He noted that the Board has to evaluate the new information presented to the County Commissioners since the Planning Board hearing and decide if it is new

information and if it is relevant and credible. He recommended continuing the meeting until tomorrow so the Board can review all the comments. He noted that if the Board determines there is not new information, they can start their discussions; if there is new information, the subdivision will have to go back before the Planning Board.

**Commissioner Thompson** said that for the most part, the public handled themselves nicely. He moved to continue the meeting until 6:00 p.m. on Wednesday night at the Elections Room.

**Commissioner Lund** seconded the motion and asked if the facility will be large enough to accommodate everyone.

**Stuart Brandborg** asked if the Board will allow additional public comment on Wednesday.

**Commissioner Chilcott** said they will not because public comment is over.

The County Commissioners unanimously approved the motion to suspend the meeting.

**Candace Jerke** asked if Sarah McMillan can turn in extra information on Wednesday morning.

**Commissioner Chilcott** said she could not since public comment was over.

5. **Suspend Public Meeting**

6. **Adjournment**

**Commissioner Chilcott** adjourned the meeting at 9:44 p.m.

# ATTACHMENT A

*County Comm'r*  
**Ravalli County Planning Board**  
Expert Witness Request (Three-Minute Waiver)

Transfer of Three-Minute Speaking Time (to another Speaker)

☒ Expert Witness Request (three-minute waiver)

☐ Transfer of Three-Minute Speaking Time

Date: 8/22/06

Name of Proposal (subdivision name, variance name, etc):

Aspen Springs

Your name: Sarah McMillan

Your residence: Missoula

State your qualifications to testify as an expert: Attorney  
for BFP & FCAASP

Length of time requested: ~~10 minutes~~ 8 minutes (likely less), or

Individual to whom you wish to transfer your three-minute speaking allotment:

Special presentation materials (slide show, maps, documents, etc.):

For those requesting additional time as an expert witness, please state the reason why your presentation cannot be made within three minutes or be submitted in writing:

I represent 2 groups and must  
insure their interests are represented

Submitted to \_\_\_\_\_ (staff) at 6:00pm on this 22 day of August, 2006.

Board Action on Waiver: ☒ Approved or ☐ Disapproved

Do we limit to time requested?

# ATTACHMENT B

BCC

**Ravalli County Planning Board**  
Expert Witness Request (Three-Minute Waiver)

Transfer of Three-Minute Speaking Time (to another Speaker)

☒ Expert Witness Request (three-minute waiver)

☐ Transfer of Three-Minute Speaking Time

Date: 8/22/06

Name of Proposal (subdivision name, variance name, etc):

Aspen Springs

Your name: Candace Jerke

Your residence: 343 One Horse Crk Rd Florence

State your qualifications to testify as an expert: \_\_\_\_\_

State Appraiser

Length of time requested: 6 min; or

Individual to whom you wish to transfer your three-minute speaking allotment:

\_\_\_\_\_

Special presentation materials (slide show, maps, documents, etc.):

\_\_\_\_\_

For those requesting additional time as an expert witness, please state the reason why your presentation cannot be made within three minutes or be submitted in writing:

Tapes are complex

\_\_\_\_\_

\_\_\_\_\_

Submitted to \_\_\_\_\_ (staff) at 6pm on this 22 day of August, 2006.

Board Action on Waiver: ☒ Approved or ☐ Disapproved

# ATTACHMENT C

<sup>BCC</sup>  
**Ravalli County Planning Board-**  
Expert Witness Request (Three-Minute Waiver)

Transfer of Three-Minute Speaking Time (to another Speaker)

( ) Expert Witness Request (three-minute waiver)

( ) Transfer of Three-Minute Speaking Time

Date: 8-22-06

Name of Proposal (subdivision name, variance name, etc):

Aspen Springs

Your name: Shawn McElroy

Your residence: 4721 Tealby Bend Ln

State your qualifications to testify as an expert: \_\_\_\_\_

Length of time requested: 3 Minutes

Individual to whom you wish to transfer your three-minute speaking allotment:

\_\_\_\_\_

Special presentation materials (slide show, maps, documents, etc.):

written to commissioners

For those requesting additional time as an expert witness, please state the reason why your presentation cannot be made within three minutes or be submitted in writing:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Submitted to \_\_\_\_\_ (staff) at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Board Action on Waiver: (X) Approved or ( ) Disapproved

# ATTACHMENT D

BCC  
**Ravalli County Planning Board**  
Expert Witness Request (Three-Minute Waiver)

Transfer of Three-Minute Speaking Time (to another Speaker)

( ☒ ) Expert Witness Request (three-minute waiver)

( ) Transfer of Three-Minute Speaking Time

Date: 8-22-06

Name of Proposal (subdivision name, variance name, etc):

Clopper Spr.

Your name: Steve Hall

Your residence: Flarence

State your qualifications to testify as an expert: FCAAS Co-chair

Length of time requested: (5); or

Individual to whom you wish to transfer your three-minute speaking allotment:

Special presentation materials (slide show, maps, documents, etc.):

For those requesting additional time as an expert witness, please state the reason why your presentation cannot be made within three minutes or be submitted in writing:

Submitted to \_\_\_\_\_ (staff) at 6pm on this 22 day of August, 2006

Board Action on Waiver: ( ☒ ) Approved or ( ) Disapproved

# ATTACHMENT E

BCC  
**Ravalli County Planning Board**  
Expert Witness Request (Three-Minute Waiver)

Transfer of Three-Minute Speaking Time (to another Speaker)

☒ Expert Witness Request (three-minute waiver)

☐ Transfer of Three-Minute Speaking Time

Date: 8/22/06

Name of Proposal (subdivision name, variance name, etc):

Aspen Springs

Your name: Cheryl Holden Rice

Your residence: 329 EL Capitan Loop, Stevi

State your qualifications to testify as an expert: \_\_\_\_\_

historian

Length of time requested: 5 min.; or

Individual to whom you wish to transfer your three-minute speaking allotment:

\_\_\_\_\_

Special presentation materials (slide show, maps, documents, etc.):

\_\_\_\_\_

For those requesting additional time as an expert witness, please state the reason why your presentation cannot be made within three minutes or be submitted in writing:

I will try to keep it w/in 3 min.

\_\_\_\_\_

\_\_\_\_\_

Submitted to \_\_\_\_\_ (staff) at 2:00 pm on this 22 day of August, 2006.

Board Action on Waiver: ☒ Approved or ☐ Disapproved

# ATTACHMENT F

RECEIVED

TO Planning

AUG 22 2006

not to BCC

**Glenda Wiles**

**From:** wildsent [wolfwranglers@wildsentry.org]

**Sent:** Tuesday, August 22, 2006 1:39 PM

**To:** Glenda Wiles

**Subject:** Aspen Springs Subdivision

Kavalli County Commissioners

4:30pm

We're emailing to ask you to support the planning board's decision to deny the Aspen Springs Subdivision. We've lived in the valley for 26 years and seen how the lack of planning has created an eyesore out of Highway 93, decreased wildlife habitat, increased air pollution and impacted private wells. It's time for you to stop this nonsense. You are elected to lead and land planning is one of your responsibilities. A subdivision such as Aspen Springs could possibly be appropriate but only if it is a part of a comprehensive plan developed for the valley. To allow these mega-developments to go forward without such a plan constitutes reckless behavior on your parts. Sincerely, Pat Tucker and Bruce Weide, 500 Jorgy Way, Hamilton, MT 59840



Ravalli County Commissioners  
215 South 4<sup>th</sup> Street  
Hamilton, MT 59840

RECEIVED

AUG 22 2006

Ravalli County Commissioners

Not given to  
BCL

Dear County Commissioners:

The recently proposed Aspen Springs Project has been positioned and marketed as a so-called "smart development." After attending several public meetings and educating myself on the components of smart development I believe the Aspen Springs model is inadequate in the following ways.

- ❖ Placing 670 homes on roughly 400 acres is not "smart" because while it makes efficient use of development land it does not allow for enough open space to preserve the original value to native wildlife.
- ❖ Leapfrogging existing infrastructure including sewage and water systems, as well as public transportation, to create new can hardly be considered efficient. Secondly, adding further demand to the already overburdened education and law enforcement systems without providing significant new resources to support the growth is not in line with other traditional "smart development" models.
- ❖ Creating the opportunity of home ownership for modest income families is admirable, but hardly "smart" given the location and target market. The Aspen Springs development would require residents to commute between 50 and 70 miles round trip to reach the nearest significant labor market. With the price of gas currently at least three dollars a gallon, the development does not make economic sense for its target demographic.

Lastly, I believe home ownership should be a realizable dream for everyone, however I urge you to please carefully consider the inadequacies of this proposal specifically regarding its location and design and the impact it would have on its target demographic and the existing community.

Sincerely,

Bob Schroeder

## Renee Van Hoven

---

**From:** Karen Hughes  
**Sent:** Tuesday, August 22, 2006 11:19 AM  
**To:** Ben Howell; Renee Van Hoven  
**Subject:** FW: Summary of my Position on the Aspen Springs proposal

Sorry, I didn't realize you guys weren't on the email list.

*Karen Hughes, AICP  
Ravalli County Planning Department  
215 S. 4th Street Ste F  
Hamilton, MT 59840  
Phone (406) 375-6530  
Fax (406) 375-6531  
khughes@ravallicounty.mt.gov*

---

**From:** Ben Hillicoss [mailto:BenHillicoss@Huntor.Myrf.net]  
**Sent:** Friday, August 18, 2006 8:42 AM  
**To:** Greg Chilcott; Alan Thompson; Betty Lund  
**Cc:** Karen Hughes; James McCubbin; Tom Ruffatto; Mary Lee Bailey; Lori Schallenberger; Les Rutledge; J. R. Iman; Dan Huls; Chip Pigman; Bob Cron; Ben Hillicoss; Dale Brown  
**Subject:** Summary of my Position on the Aspen Springs proposal

**Date:** August 17, 2006

**Subject:** Summary of my Position on the Aspen Springs proposal

**To:** Ravalli County Commissioners,

**CC:** Members of the planning board  
Mr. James McCubbin  
Ms. Karen Hughes

I am writing to you to explain in detail, my votes, on the Aspen Springs Subdivision and variances. Because of the massive size to the record for this subdivision, I think it might be very helpful to you for some of us as members of the Ravalli County Planning Board, to summarize our positions for you.

Variance #1 would allow this project to be developed in 32 phases over 22 years. I did not support approval of this variance because I find it is nearly impossible to predict the projected impacts of this project and others in the neighborhood over the next 22 years. During the last five years, people in the Bitterroot Valley have seen major changes that could strongly impact this area in the near future. Some of the key factors of significant concern to me are 1) the apparent effects of global climate change, particularly the loss of and early melting of the snow pack in the mountains of Montana, (This could seriously impact the availability of water), 2) the rapid and accelerating rate of increase in the price of gasoline and electrical power, (this and the next several items will impact the cost and affordability of the houses), 3) our current national economic situation including our current enormous federal deficit, 4) our enormous balance of payment deficits, 5) our steadily increasing need to import enormous quantities of foreign oil, 6) the very rapid inflation of the cost of building materials, etc. Many of these changes have been rapid and appear to be accelerating, and thus increasing the risk of estimating any

8/22/2006

project of this size over a period of 22 years. If after 11 years when this project is half finished, if the developer cannot complete the project due to financial problems, the existing homeowners and county would be left paying for the remaining necessary infrastructure.

Variance #2 is to require this development to be interconnected to adjacent roadways and developments. I did not support approval of this variance because of its major impact on the efficient flow of traffic between this and surrounding subdivisions and also because of the health and safety issues that develop if you have a subdivision of this size and density without alternate auto routes out of the subdivision available to deal with traffic delays, traffic efficiency and possible emergency situations such as fires.

Variance #3 and #6 -- I supported the approval of these variances to bring this project into compliance with recent revisions to the subdivision regulations.

Variance #4 -- I did not support this variance to allow for building lots of less than 7,500 square feet because this would be totally out of character with the other developments in this area.

Variance #5 -- I supported the flag lot variance because of the small number of flag lots and the rationale presented for them seemed sound. (A flag lot is a lot shaped like a flag with a pole.)

Variances 7 and 8 -- I did not support the road variances because I felt that for a subdivision of this size (643 lots), it is essential for the developer to agree to fix the road problems to the fullest extent possible, at his cost. I supported the concept of a latecomer fee reimbursement to be imposed on other future developments in this area where appropriate, but only provided that it includes a date limit of not greater than 10 years or one half of the life expectancy of the road improvements.

I cannot support approval of this subdivision as defined and presented. I liked many aspects of the plan including seeing the complete project design, the paved roads, curbs and gutters, centralized septic/sewer system, keeping the ridges and drainage as open space, providing adequate parks and park space, the interconnected trail system and providing space for some commercial development within the subdivision. However, at an average of almost 2 houses per acre over the total subdivision with many places having densities of around 10 houses per acre, this subdivision will be totally out of character with the surrounding neighborhoods.

I could support this subdivision if it was located adjacent to Highway 93 north of Florence and if there were regulations, financing or agreements in place to mitigate the impacts on the roads, schools, the Sheriff's Department and other health and human's safety issues. I am also very concerned about the cumulative impact of this subdivision and all of the already approved lots and other subdivisions in the Florence area east of the Bitterroot River.

I am particularly concerned about the future impacts of dense development in this area on public health and safety, water quality and quantity. In 30 to 50 years, if all of the development in this part of the Valley causes the aquifers to start to dry up, what would be our solution? Would we take the approach that LA used when it bought up the water rights on the Owens River, the Sacramento River and the Colorado River? Would we dam up Rock Creek and the Clark Fork and pump the water over the mountains to keep the lawns green in these developments? I hope not, but I am afraid that the future homeowners would vote to do just that if they are running out of water.

These decisions to approve or to deny major subdivisions are very complex, and they become very difficult when you realize that once they are approved, they generally become irreversible. They may also cause enormous financial and quality-of-life impacts on the current and future homeowners and

taxpayers in this valley. When I consider the probable changes we face in the next 20 years, and attempt to project the impact of these changes combined with the impact of all proposed mega subdivisions, plus the probability of homes being built on many of the approved 7,000 plus lots in the Bitterroot Valley, I become very concerned. The situation is also made much more severe than might be apparent at first glance, because Ravalli County does not have in place building codes, zoning, impact fees or sufficient tax revenue to help deal with the consequences of the problems that will result from this rapid growth. We need to fix these problems before we approve more projects of this duration, size and impact.

Finally, the planning board and commissioners must give serious consideration to the voices of the public and the current homeowners, residents and tax payers. The vast majority of comments received from the public, regarding this subdivision, during the planning board's public hearing process were thoughtful concerns, and requests that we not approve this subdivision and many of the requested variances. Also, two key community leaders (the School Superintendent and the County Sheriff) who are responsible for key public functions, presented compelling testimony that major impacts of this subdivision would not be adequately mitigated.

Thank you,

Ben

From: Ben Hillicoss, 5115 Gunsight Lane, Florence MT, 59833  
Email: [BenHillicoss@Huntor.myrf.net](mailto:BenHillicoss@Huntor.myrf.net) Web: [www.BenHillicoss.com](http://www.BenHillicoss.com)  
Phones: Home 406.777.0187, Cell 406.207.0208

Glenda Wiles

From: schwartzmans [dakine@montana.com]  
Sent: Sunday, August 20, 2006 8:40 PM  
To: Glenda Wiles  
Subject: aspen springs subdivision

RECEIVED

AUG 22 2006

Ravalli County Commissioners

dear commissioners,

we are writing in opposition to the aspen springs subdivision. we feel that such a large subdivision is not in the best interests of the health and safety of ravalli county residents. there are a number of areas where this subdivision is problematic:

1. access: although the streets of the subdivision are going to be paved the access roads in and out of aspen springs will not be . 5000 cars a day on a dirt road is a health problem for the surrounding area. parts of the subdivision are on 20% slopes. the roads servicing these areas will be hazardous in the winter. 20% is a ski slope , and a steep one at that.

2. traffic: the east side highway is a road meant to serve farms. there are several 90 degree turns that are already quite hazardous. borrow pits next to the road are steep in many areas with dropoffs of 5-15 feet. currently there are 5000 vehicles a day on the northern section of the east side highway. aspen springs would double traffic on an already marginal situation. more deaths, more dangerous driving associated with impatient drivers. you are signing death warrants by approving aspen springs.

3.essential services: placing a new city the size of stevensville in the northernmost edge of the county would place undo hardship on already strained county services like the sheriffs office. high density means more crime, but there is no way to deal with it at present. this is another safety issue.

4.high density water use: 700 houses, all on septic and wells within 400 acres is a recipe for a health disaster. groundwater pollution will be the result, if sufficient groundwater will be available to serve such a large population. a town of this density needs a sewer system , like stevensville or hamilton.

we urge you not to approve this subdivision . we are not against growth. we need a true growth plan that keeps the rural areas of ravalli county rural, and concentrates high density in the town areas , that already have the services and commercial interests to serve this new influx of population. let's strive to preserve the rural feel and farms of ravalli county. we thank you for your time.

sincerely,

steve and tina schwartzman

stevensville

## Glenda Wiles

---

From: PXTTS@aol.com  
Sent: Tuesday, August 22, 2006 6:58 AM  
To: Glenda Wiles  
Subject: ASPEN SPRINGS

Commissioners,

Please deny approval of Aspen Springs.

Thank you,  
Tom Potts  
(Victor)

RECEIVED

AUG 22 2006

Ravalli County Commissioners

--	--	--	--

To: Betty Lund

From: Christine Farrington  
 To: Tuesday, August 22, 2006 11:12 AM  
 'blund@ravallicounty.mt.gov'  
 Subject: ASPEN SPRINGS PUBLIC HEARING

DEAR MS. LUND,

WE ARE UNABLE TO ATTEND THE HEARING THIS EVENING HOWEVER WE WANT TO SAY A FEW WORDS.

WE HIGHLY DISAGREE WITH THE PROPOSED ASPEN SPRINGS SUBDIVISION. EMERGENCY SERVICES ARE NOT ANY WHERE ADEQUATE, THE LOSS OF WILDLIFE HABITAT IS HAPPENING DAY TO DAY WITH THE ENCROCEMENT OF SUBDIVISIONS. THE TRAFFIC ON THE EASTSIDE HIGHWAY AND HIGHWAY 93 IS ALREADY MAXED OUT. WE HAVE BEEN RESIDENTS AND REGISTERED VOTERS IN RAVALLI COUNTY SINCE 1982. TAKE A DRIVE DOWN THE EASTSIDE HIGHWAY AND COUNT THE CROSSES. THERE ARE TOO MANY! 636 X 2 CARS AVERAGE PER HOUSEHOLD AND HERE IS ANOTHER 1272 CARS ON ALREADY DANGEROUS HIGHWAYS.

WE WOULD APPRECIATE IT IF YOU WOULD ADD OUR COMMENTS TO YOUR HEARING.

THANK YOU

JAMES L FARRINGTON  
 CHRISTINE M FARRINGTON  
 1241 PARK LANE  
 STEVENSVILLE MT 59870  
 406-777-5108

RECEIVED  
 AUG 22 2006  
 Ravalli County Commissioners

RECEIVED  
 AUG 22 2006  
 Ravalli County Commissioners

**To: GREG Chilcott**

re:  
ent: Christine Farrington  
p: Tuesday, August 22, 2006 11:07 AM  
ubject: 'gchilcott@ravallicounty.mt.gov'  
ASPEN SPRINGS PUBLIC HEARING

BAR MR CHILCOTT,

WE ARE UNABLE TO ATTEND THE HEARING THIS EVENING HOWEVER WE WANT TO SAY A FEW WORDS.

WE HIGHLY DISAGREE WITH THE PROPOSED ASPEN SPRINGS SUBDIVISION. EMERGENCY SERVICES ARE NOT ANY WHERE ADEQUATE. THE LOSS OF WILDLIFE HABITAT IS HAPPENING EVERY DAY TO DAY WITH THE ENCROACHMENT OF SUBDIVISIONS. THE TRAFFIC ON THE EASTSIDE HIGHWAY AND HIGHWAY 93 IS ALREADY MAXED OUT. WE HAVE BEEN RESIDENTS AND REGISTERED VOTERS OF RAVALLI COUNTY SINCE 1982. TAKE A DRIVE DOWN THE EASTSIDE HIGHWAY AND COUNT THE CROSSES. THERE ARE TOO MANY! 16 X 2 CARS AVERAGE PER HOUSEHOLD AND HERE IS ANOTHER 1272 CARS ON A ALREADY DANGEROUS HIGHWAY.

WE WOULD APPRECIATE IT IF YOU WOULD ADD OUR COMMENTS TO YOUR HEARING.

THANK YOU

AMES L FARRINGTON  
CHRISTINE M FARRINGTON  
241 PARK LANE  
EVENSVILLE MT 59870

406-777-5108





: WOULD APPRECIATE IT IF YOU WOULD ADD OUR COMMENTS TO YOUR HEARING.

WMHS:

:wof  
 :c  
 :na  
 :wo.



## Glenda Wiles

---

From: barbara Pitman [bpitman@bresnan.net]  
Sent: Monday, August 21, 2006 1:56 PM  
To: Glenda Wiles  
Subject: Aspen Springs; development in general

Commissioners:

A slow growth policy of planned development is vital. Impact statements and significant realistic impact fees need to be imposed on all developers.

The two acre limit seems a reasonable place to begin. Florence's \$5000 fee is also a good place to start.

Aspen Springs, as it is now being presented, needs to be denied.

We see no need to rush to meet some developer's agenda; the greater good of the larger community should be of paramount concern to all of us.

Dennis and Barbara Pitman

RECEIVED

AUG 22 2006

Ravalli County Commissioners  
\_\_\_\_\_  
\_\_\_\_\_

RECEIVED

Glenda Wiles

AUG 22 2006

From: Craig Kuchel [Craig.Kuchel@mso.umt.edu]  
Sent: Tuesday, August 22, 2006 9:58 AM  
To: Glenda Wiles  
Subject: I vehemently oppose the proposed subdivision called "Aspen Springs"

Ravalli County Commissioners

Dear Members of the Ravalli County Commission,

As an owner of one of the houses nearest the proposed Aspen Springs Development, I want to go on record as opposing the development. Having lived at 22 Slack Lane for 29 years, I have witnessed tremendous, unplanned growth in the Hidden Valley and Eight Mile areas. That growth, because no agency would step up and formulate a plan for growth in the area, alone has had a tremendous impact on the entire Florence area. Wildlife have been squeezed into an ever-smaller space, and now the area of proposed development is part of the main remaining corridor used by animals moving from the Sapphire Range to and from the river bottom. It is home to many sensitive species like sandhill cranes and long-billed curlews.

Traffic on Eight Mile Road is so congested that it is often difficult for residents to get to work or school on time. Many years in the past 30, spring snowmelt has put sections of Lower Woodchuck under nearly a foot of water. The fact that there is one road leading into and out of the area makes it almost laughable that any developer would select that particular spot to propose to build 650 new homes. But, unfortunately, it is no laughing matter! The impact on law enforcement and fire protection agencies would be beyond the county's means to support those agencies adequately. We have already experienced firsthand the incredibly slow response time of emergency providers and law enforcement in the area, despite the best efforts of law enforcement personnel. The dry grassland they are proposing to develop evolved under fire, and there will no doubt be major fires in the area in the future.

Average well depths have increased as development has moved into the Eight Mile Valley. Managing septic drainfields for 650 homes to avoid polluting the Bitterroot River would be a severe challenge. Any negative impact on water quality in the area is unacceptable.

As a teacher at Florence-Carlton High School, I have witnessed firsthand the tremendous impact the growth of the Florence area has had on the educational institution. Adding a new population nearly the size of Stevensville would stress taxpayers' ability to support the system, and the scope and extent of the detrimental effects are almost unimaginable.

What remains of the main feature attracting people to the Florence area, the rural character and high quality of life, will be lost forever. You may remember a bumper sticker campaign opposing unplanned growth of the valley in the late 70's and early 80's. The theme was "Moving to the Bitterroot? Bring your own school." This plan, if approved should be met with a similar campaign, but the sticker should read, "Moving to Aspen Springs? Bring your own school, police force, fire department, water and sewage system, roads and traffic signals, and emergency medical system."

Please do the responsible thing and deny permission to move forward with the Aspen Springs Blight.

Sincerely,  
Craig Kuchel  
22 Slack Lane  
Florence, MT 59833

RECEIVED

AUG 22 2006

Ravalli County Commissioners

Dear Ravalli County Commisioners:

I have watched in sad disbelief as the Aspen Springs proposal has come ever-closer to reality. We moved to the Lower Woodchuck area east of Florence in 1977, to raise our family in the peace and tranquility of the rural atmosphere that the area provided. At the time there were 6 houses in the entire 8-mile drainage. After getting off the Eastside Highway and passing the homes of the owner and the ranch hand of the Cook Ranch, except for being able to see 3 homes down by the river in what is now Cormoret Loop, one did not pass a single building for nearly 3 miles, until reaching the Mikesell ranch house.

But young families needed affordable houses within easy commuting distance from Missoula, so the area began attracting new residents. Soon the grassland was dotted with new homes, and Florence youngsters had to quit hunting deer in the area. Now, there are hundreds of homes, and the quality of life has steadily changed as the years have passed. We never used to lock our home or cars, leaving the keys in the ignition, but crime, unheard of in early years, began to creep into the area.

Traffic on 8-mile/Woodchuck Road and the Eastside Highway into Florence has become so congested that I leave the house for my morning commute to Missoula at 6:30 every morning to get to a job that doesn't start until after 8:00. I found that my time was more productive being at my place of work for over an hour rather than sitting in my car with the hundreds of other cars that begin to spill onto the road between 7:15 and 7:30.

Unfortunately, as the population has ballooned, there has been no proportionate increase in the infrastructure in the area. Sheriff's deputies rarely make it to our end of the valley, so quick response to emergencies is nonexistent. The community is not incorporated, so there is no local law enforcement, no municipal sewage or water systems, and no local government to pursue issues such as zoning and limiting absurd development. So we have been and continue to be at the mercy of county commissioners and planners, many of whom are more interested in things going on at the more southerly end of the valley. It does not take much insight to realize that an additional 650 homes will bring enough people into the area to need a school, a sheriff's office, a fire department beyond the volunteer rural department, road improvements, including traffic signals, and many more very expensive infrastructure needs. Of course the burden of paying for all the improvements will not be shouldered by the developer, but by the local taxpayers, and not just the ones living in Aspen Springs. The developer will make token gestures to offset the impact, but will leave the problems of handling the explosive growth to the community, as he gets out with his millions.

Please consider the potential impact of this decision on the people of Florence well into the next generation. Please do not insult us by voting in favor of the proposed subdivision.

Thank you.

Joan Kuchel  
22 Slack Lane  
Florence, MT 59833

Sandra Alcosser  
Philip Maechling  
5791 West County Line  
Florence, Montana 59833

Ravalli County Commissioners

AUG 2 2006

RECEIVED

Not  
given  
to  
BCC.  
To  
Planning

19 August, 2006

Board of County Commissioners  
Ravalli County, Montana

Dear Alan, Betty and Greg,

This letter regards your decision on the development proposal Aspen Springs. The proposal as presented to the Planning Board and County Commission should not be approved. The costs and benefits can be evaluated. While at face value there may be some benefits, principally to the developers and to their builders, the costs to the community are far greater, and cannot be justified.

There are physical and social circumstances in northern Ravalli County that make the denial of this proposal both the responsible thing to do, and defensible. After reviewing the data on natural and social resources, it is clear that the effects on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety can not be mitigated as proposed by the applicant.

The public infrastructure necessary to serve a town of this size will never be paid for by Aspen Springs, even if it were an incorporated town from the day it might be approved. The transportation, recreation, education, health and welfare systems that serve the Eight Mile Road area and the community of Florence are inadequate now to handle existing needs. Public safety cannot be provided for the proposed development by the Sheriff's office or by the County's volunteer emergency services network. The development proposed is simply too dense, too isolated, and too poorly connected to the rest of the community. A development of this size would have to have a dedicated public (not private) safety and emergency service component financed to provide services from the outset of development.

But this is perhaps only the beginning of a larger set of problems. If this proposal is approved, it could set precedents for approval of other proposals of this size. The cumulative impact of this and additional proposals in similar remote areas inadequately served by services and infrastructure is daunting. We

in the northern part of the county have no plan or process now for the future provision of services.

In short, proposals of this size and scale should be located on principal transportation routes and inside the growth areas of our small incorporated and unincorporated towns. As a rural county, we have a responsibility to support existing communities already planning for community infrastructure, including water and sewer systems, parks, schools and other necessary services.

In addition to infrastructure problems, cars, kids, cats, and dogs can have unmitigable impacts on agricultural lands and livestock, and wildlife and wildlife habitat. Conflicts that result from the mix of suburban development and the working landscape are well documented. The county cannot be expected to monitor infractions and to hold developers accountable for potential cut fence, harassed animals, and habitat impacts.

And then there is the water issue. At 200 gallons of water per day per household, plus the need to retain sufficient water supply for fire protection and landscaping, the effect of this water sequestering on agricultural water users has not been definitively mitigated by the current proposal.

And finally, there is the urban wildland interface. In the event of a wildfire, how can public safety be assured in this dry and remote site if the Eight Mile Road in is closed off by fire or other impediment?

This is not about development in general, and there are elements of the proposed Aspen Springs that may be desirable on their own, or in another location. Perhaps that is the crux of the problem – the location is so wrong. Aspen Springs is not "smart growth", nor is it "traditional". The developer would have you believe that this proposal is consistent with the growth policy. It could not be farther from the truth.

Please review this proposal carefully, weigh the costs and benefits to the people of Ravalli County. Please evaluate impacts and proposed mitigation. And then we trust you will do the only responsible thing, deny this proposal.

Thank you for the difficult decision in advance,

  
Philip Maechling

  
Sandra Alcosser

## Renee Van Hoven

---

**From:** Karen Hughes  
**Sent:** Monday, August 21, 2006 1:02 PM  
**To:** Renee Van Hoven; Ben Howell  
**Subject:** FW: Aspen Springs

**Attachments:** Aspen\_BCC\_.doc



Aspen\_BCC\_.doc  
(27 KB)

Karen Hughes, AICP  
Ravalli County Planning Department  
215 S. 4th Street Ste F  
Hamilton, MT 59840  
Phone (406) 375-6530  
Fax (406) 375-6531  
khughes@ravalliacounty.mt.gov

-----Original Message-----

**From:** Philip Maechling [mailto:pmaechli@co.missoula.mt.us]  
**Sent:** Monday, August 21, 2006 12:59 PM  
**To:** Karen Hughes  
**Subject:** Aspen Springs

Hi Karen,

Sandra and I have a letter for the Commissioners for tomorrow's hearing. I am attaching it here, and sending it along in the mail as well. If you would be so kind as to pass it along to the BCC, we would be much obliged. Hope all goes well, and thanks, Philip

Philip Maechling,  
Missoula Historic Preservation Office  
435 Ryman, Missoula, Montana 59802  
email: pmaechli@co.missoula.mt.us  
phone: 406-258-4706; fax: 406-258-4903



Sandra Alcosser  
Philip Maechling  
5791 West County Line  
Florence, Montana 59833

19 August, 2006

Board of County Commissioners  
Ravalli County, Montana

Dear Alan, Betty and Greg,

This letter regards your decision on the development proposal Aspen Springs. The proposal as presented to the Planning Board and County Commission should not be approved. The costs and benefits can be evaluated. While at face value there may be some benefits, principally to the developers and to their builders, the costs to the community are far greater, and cannot be justified.

There are physical and social circumstances in northern Ravalli County that make the denial of this proposal both the responsible thing to do, and defensible. After reviewing the data on natural and social resources, it is clear that the effects on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety can not be mitigated as proposed by the applicant.

The public infrastructure necessary to serve a town of this size will never be paid for by Aspen Springs, even if it were an incorporated town from the day it might be approved. The transportation, recreation, education, health and welfare systems that serve the Eight Mile Road area and the community of Florence are inadequate now to handle existing needs. Public safety cannot be provided for the proposed development by the Sheriff's office or by the County's volunteer emergency services network. The development proposed is simply too dense, too isolated, and too poorly connected to the rest of the community. A development of this size would have to have a dedicated public (not private) safety and emergency service component financed to provide services from the outset of development.

But this is perhaps only the beginning of a larger set of problems. If this proposal is approved, it could set precedents for approval of other proposals of this size. The cumulative impact of this and additional proposals in similar remote areas inadequately served by services and infrastructure is daunting. We in the northern part of the county have no plan or process now for the future provision of services.

In short, proposals of this size and scale should be located on principal transportation routes and inside the growth areas of our small incorporated and unincorporated towns. As a rural county, we have a responsibility to support existing communities already planning for community infrastructure, including water and sewer systems, parks, schools and other necessary services.

In addition to infrastructure problems, cars, kids, cats, and dogs can have unmitigable impacts on agricultural lands and livestock, and wildlife and wildlife habitat. Conflicts that result from the mix of suburban development and the working landscape are well documented. The county cannot be expected to monitor infractions and to hold developers accountable for potential cut fence, harassed animals, and habitat impacts .

And then there is the water issue. At 200 gallons of water per day per household, plus the need to retain sufficient water supply for fire protection and landscaping, the effect of this water sequestering on agricultural water users has not been definitively mitigated by the current proposal.

And finally, there is the urban wildland interface. In the event of a wildfire, how can public safety be assured in this dry and remote site if the Eight Mile Road in is closed off by fire or other impediment?

This is not about development in general, and there are elements of the proposed Aspen Springs that may be desirable on their own, or in another location. Perhaps that is the crux of the problem -- the location is so wrong. Aspen Springs is not "smart growth", nor is it "traditional". The developer would have you believe that this proposal is consistent with the growth policy. It could not be farther from the truth.

Please review this proposal carefully, weigh the costs and benefits to the people of Ravalli County. Please evaluate impacts and proposed mitigation. And then we trust you will do the only responsible thing, deny this proposal.

Thank you for the difficult decision in advance,

*Philip*

Philip Maechling

*Sandra*

Sandra Alcosser

**Glenda Wiles**

*Not given to  
Commissioners*

**From:** Ruth Kleinjan [rkleijn@hotmail.com]  
**Sent:** Monday, August 14, 2006 6:34 AM  
**To:** Glenda Wiles  
**Subject:** Aspen Springs

I am voicing my support for denial of the Aspen Springs sub-division.

Ruth E. Kleinjan

634 Three Mile Creek Road

Stevensville MT 59870

406-777-9873

Ruth Kleinjan  
rkleijn@hotmail.com  
406-777-9873

8/14/2006

**Glenda Wiles**

---

**From:** jackbayer@peoplepc.com  
**Sent:** Sunday, August 13, 2006 4:42 PM  
**To:** Glenda Wiles  
**Subject:** Aspen Springs Subdivision

Dear Commissioners:

I want to encourage all three of you to support the decision made by the Ravalli County Planning Department in which they did not approve the Aspen Springs Subdivision in the Florence area.

A subdivision of that magnitude will impact the entire county--not just the north end. The roads, schools, air quality, water, fire, police, building department, to name a few, will all be adversely affected if such a large scale development is approved.

I am not opposed to growth in the valley. Quality and controlled growth to an area is an asset, if managed properly.

Please set aside any personal advantages you might achieve by allowing this kind of growth to continue in the valley. The welfare and quality of the residents of Ravalli County must be your top priority.

Barbara Bayer  
200 Hanover Court  
Hamilton MT 59840

e-mail [jackbayer@peoplepc.com](mailto:jackbayer@peoplepc.com)

363 7949

8/14/2006

**Glenda Wiles**

---

**From:** Arnie Eaton [aeeaton@cybernet1.com]  
**Sent:** Sunday, August 13, 2006 4:20 PM  
**To:** Glenda Wiles  
**Subject:** Aspen Springs

I and my wife are fully against the subdivision known as Aspen Springs. This housing development will be a hardship on the Florence School and our local law enforcement depts. We, the citizens of Ravalli County, do not need the kind of problems this development will cause. The county PLanning Dept have done their job and have recommended denial of this development. Now you must follow thru with your denial as well. Don't make Ravalli county a magnet for large development by out of state get-rich realltors.

Ann and Arnold Eaton, 238 Hillcrest Drive, Hamilton

8/14/2006

RECEIVED  
AUG 09 2006  
1C-06-08-1275  
Ravalli County Planning Dept.

PO Box 580  
Florence, MT 59833

August 8, 2006

Ravalli County Commissioners  
Greg Chilcott  
Alan Thompson  
Betty Lund  
215 S. 4th Street, Suite A  
Hamilton, MT 59840

I'm writing to share my worry about the proposed Aspen Springs development and the similar proposed developments. I am the secretary-treasurer of a sixteen lot subdivision that is sandwiched in between two of the proposed developments. After polling almost all our members, I add their voices to mine in opposition to your approval of the Aspen Springs development. We urge you to send the developers back to the drawing board for a plan more in keeping with the eight mile area.

Our reasons are mainly due to the density and to the location. This type of development makes sense located next to an existing city with spare infrastructure such as water, sewer, police and fire. But not in the eight mile area nor off Dry Gulch Rd, for that matter.

My wife and I retired to your beautiful valley about five years ago. Before moving, we resided in northwestern Washington State where we were quite used to zoning and depended on it. In the absence of zoning, we made sure our new home here was subject to many enforceable covenants. It's a miracle development to date has been as benign as it has been. But the time has come for zoning. Even though zoning is imperfect, it is the only fair method. Immediately adopting the two acre minimum lot size for future development would be a good first step.

I appreciate the time you have taken to read this and your service to Ravalli County.

Thank you,

*Larry Jones*

Larry Jones  
Secretary-Treasurer  
Sinnissippi Views Ph II

## Renee Van Hoven

---

**From:** Glenda Wiles  
**Sent:** Monday, August 07, 2006 9:16 AM  
**To:** Karen Hughes; Renee Van Hoven  
**Subject:** FW: Aspen Springs Development

Info on Aspen Springs. I am forwarding it to you and not the commissioners. Can you include in the public comment portion.

Glenda Wiles  
Administrative Assistant  
Ravalli County Commissioners  
215 S. 4th Street, Suite A  
Hamilton, MT. 59840  
406-375-6500  
406-375-6507 Fax

-----Original Message-----

**From:** B&D Rowland [mailto:brucedorey@montana.com]  
**Sent:** Friday, August 04, 2006 5:57 PM  
**To:** Glenda Wiles  
**Subject:** Aspen Springs Development

Dear County Commissioners,

I have not studied the plans for the proposal regarding the Aspen Springs Development, but would like to comment on the Developer. I am a homeowner in Canyon Creek Village. This development was built by Wesmont. I purchased my house during construction of the first phase. My wife and I are pleased for the most part with the neighborhood and our home. We are, however, concerned with the lack of planning and follow through in reference to the infrastructure. Our streets and alleyways have been failing since the completion of the first phase. Wesmont initially made attempts to fix the problem, but has since decided to turn over the responsibility of repair to the homeowners association. Consequently, we as homeowners will bear the burden of repairing our own infrastructure instead of using those funds to improve our community. Please take this into consideration as you consider the Aspen Springs development. I would also encourage you all to tour our development if you haven't done so already. I would be happy to answer any questions you may have pertaining to my experience with this developer. -Bruce Rowland 360-7967

RECEIVED

AUG 07 2006

IC-06-08-1250  
Ravalli County Planning Dept.

PENNY RITCHIE  
10 Kestrel Lane  
PO Box 70  
Florence MT 59833  
406-273-2230

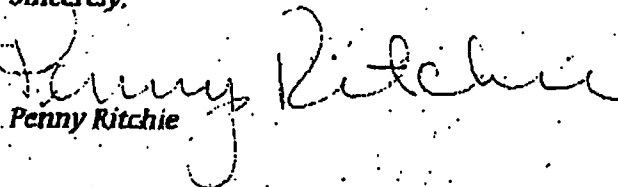
Friday, August 04, 2006

TO THE RAVALLI COUNTY PLANNING BOARD, PLANNING DEPARTMENT, AND  
COUNTY COMMISSIONERS:

I want to express my thanks for all the time and effort put into the consideration of the Aspen Springs subdivision development in Florence. Thanks, especially, for coming to the conclusion that Aspen Springs should not be approved as proposed. I hope the County Commissioners read the full transcripts of the hearings and all written testimony, so they realize just how important it is that they require developers to meet the conditions required for development in this county. The bar is already pretty low - they don't need to lower it even further.

Again, thank you for listening to the people who live and work here, and thank you for having the courage to reject this proposal.

Sincerely,

  
Penny Ritchie



August 5, 2006

Carol A. Evans  
332 Explorer Way  
Florence, MT 59833  
406-273-0806  
email: bitterrootbabe@bresnan.net

---

Alan Thompson  
County Commissioner  
Ravalli County  
215 S 4th St.  
Suite A  
Hamilton, MT 59840

Dear Alan,

I implore you to vote NO to the Aspen Springs proposed subdivision. My reasons are as follows:

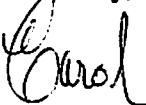
1. Danger to the groundwater supply and pollution to the river and/or the aquifer.
2. Increased traffic congestion to an existing substandard and needless to say deadly intersection, bridge and road system.
3. Negative impact on fire protection and law enforcement agencies.
4. Further stress on already overcrowded school district.
5. Higher property taxes. (due to some of the above concerns).
6. Encroachment to wildlife habitat and further loss of open space.
7. Light pollution.
8. Further loss of the integrity of country living in the Bitterroot Valley.

I have talked to residents of the Canyon Creek subdivision in Missoula County, and they have expressed frustration in the inferior construction of their homes. We do not need another shoddy thing like that here in Ravalli County. It is deplorable for the "developers" to take this kind of advantage of low income families and the elderly.

And, in final thought, I suggest this be renamed the *Scrub Hills* proposed subdivision. There is no apparent existence of aspen on this land nor springs. I sincerely hope that the final decision is to **Scrub** the *Aspen Springs* subdivision altogether.

Thank you for taking the time to consider my opinions.

Sincerely,



August 5, 2006

Caro Evans  
332 Explorer Way  
Florence, MT 59833  
406-273-0806  
email: bitterrootbabe@bresnan.net

---

Betty Lund  
County Commissioner  
Ravalli County  
215 S 4th St.  
Suite A  
Hamilton, MT 59840

Dear Betty,

I implore you to vote NO to the Aspen Springs proposed subdivision. My reasons are as follows:

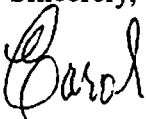
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2. Increased traffic congestion to an existing substandard and needless to say deadly intersection, bridge and road system.
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8. Further loss of the integrity of country living in the Bitterroot Valley.

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Thank you for taking the time to consider my opinions.

Sincerely,



August 5, 2006

Carc Evans  
332 Explorer Way  
Florence, MT 59833  
406-273-0806  
email: bitterrootbabe@bresnan.net

---

Greg Chilcott  
County Commissioner  
Ravalli County  
215 S 4th St.  
Suite A  
Hamilton, MT 59840

Dear Greg,

I implore you to vote NO to the Aspen Springs proposed subdivision. My reasons are as follows:

1. Danger to the groundwater supply and pollution to the river and/or the aquifer.
2. Increased traffic congestion to an existing substandard and needless to say deadly intersection, bridge and road system.
3. Negative impact on fire protection and law enforcement agencies.
4. Further stress on already overcrowded school district.
5. Higher property taxes. (due to some of the above concerns).
6. Encroachment to wildlife habitat and further loss of open space.
7. Light pollution.
8. Further loss of the integrity of country living in the Bitterroot Valley.

I have talked to residents of the Canyon Creek subdivision in Missoula County, and they have expressed frustration in the inferior construction of their homes. We do not need another shoddy thing like that here in Ravalli County. It is deplorable for the "developers" to take this kind of advantage of low income families and the elderly.

And, in final thought, I suggest this be renamed the *Scrub Hills* proposed subdivision. There is no apparent existence of aspen on this land nor springs. I sincerely hope that the final decision is to **Scrub** the *Aspen Springs* subdivision altogether.

Thank you for taking the time to consider my opinions.

Sincerely,



Florence Montana  
August 2, 2006.

From:

Ravalli County Planning Dept.  
215 South 4th Street  
Hamilton, MT. 59840

Subject: Canyon Springs Subdivision

TO WHOM IT MAY CONCERN;

As a property owner in Hidden Valley, I  
would like to voice my opposition to this  
subdivision.

Unless the homes are restricted to at least  
one acre per home, the developer pays for the  
new school and police, fire facilities, and any  
new roads and bridges to open the Ballmont,  
and furnish large parks and walking  
the project could put unnecessary financial  
strain on our home, property and lives.

Don't give in to the pressure being applied by  
the developer. This is a bad idea. I say this

RECEIVED  
AUG 07 2006  
1C-06-08-1260  
Ravalli County Planning Dept.

Davy & Connie Herd  
348 Explorer Way  
Florence, Montana  
59833  
406-273-0036

**Ben Howell**

**From:** Allison Kinney [truehues@msn.com]  
**Sent:** Wednesday, August 02, 2006 4:34 PM  
**To:** Ben Howell; Alan Thompson; Greg Chilcott; Betty Lund  
**Subject:** Aspen Spring

Please do not approve the Aspen Springs subdivision proposed in Florence Montana. My concern is for the young people and the development of community, as a process that belongs to the inhabitants, not outside developers

The beauty of the Bitterroot Valley has made this one of the fastest growing counties in the state of Montana for 10 years. This growth has come in the form of new housing and subdivisions, not sustainable economic growth. For all its beauty, it is socially isolating, remote and its recreational opportunities are often inaccessible to young people with limited access to transportation. For many young people the school bus is the only way they travel to and from their homes during the week. Parents are driving 40 to 50 miles to work, driving an average of 30 minutes, 5 minutes longer than the national mean time, leaving young people unsupervised after school and in the summer. Communities around the nation are now beginning to document the risk factors that increase based on "drive in, drive out communities and cultures." The small rural communities have no resources for young people beyond the overcrowded schools, where school resources are limited and shrinking. There are few after school programs or community centers open, and the few businesses in small towns do not cater to young people. There is a burgeoning clash of culture between the old self-sufficient western life and the new sophisticated urbanites. Before this commission allows the valley it is imperative that they address the economic infrastructure

According to the Prevent Needs Assessment, completed by Ravalli County Youth through the MT Dept of Health and Human Services, the identified risk factor 'Transitions and Mobility' has risen 7.8% for 8<sup>th</sup> grade students since 2002 (from 41.1 % to 49.2%) and more than half of all young people report low neighborhood attachment and community disorganization. Youth violence is up in all three grades measured. Unstructured social activities for youth lead to a rise in delinquency rates, arrests are up for property crime and vandalism. The risk factors that exist in the lives of youth in Ravalli County are rising. Bringing new families into a "Drive Away Community" only creates an even larger strain on the already overburdened school and law enforcement communities.

Respectfully,  
Allison Kinney· Florence, MT

**A brief Ravalli County Youth Risk Behavior Assessment:**

The prevalence of Underage Drinking in Ravalli County remains consistent. The number of Ravalli County students that reported drinking alcohol in the past 30 days is higher than the national norm by five percent. Youth who binge drink in Ravalli County exceeds the state and seven state norms as identified by the Prevention Needs Assessment. Twelfth grade students surveyed report binge drinking at a rate of 45.3%. Our motor vehicle accident death rate in Ravalli County is 24.8(n=43), higher than the rate for the

8/2/2006

state of Montana. Nine point seven percent (n=404) of reported motor vehicle crashes in the county involve alcohol. Montana leads the nation in deaths related to driving under the influence. Montana youth 15 years old can get their drivers license after completing Drivers Education classes, and 14 year olds can get a provisional license with parental consent.

Suicide is the second leading cause of death for Montana youth ages 10-24. Montana is ranked in the top five states for the highest rates of youth suicide for the past several decades. The state suicide rate is 16.7 per 100,000. Alcohol and drug impairment, hopelessness and underlying mental illness all contribute to these high rates. In 2003, 26.4% of Ravalli county youth said they felt sad or hopeless almost everyday for two weeks or more in a row which stopped them from doing some usual activities. Marijuana use is up in both 10<sup>th</sup> and 12<sup>th</sup> grades and is comparable to the state norm. Inhalant use in the 8<sup>th</sup> grade is up from 10.7% to 14.3%, significantly higher than the National average (9%) for 2003 according to National Institute on Drug Abuse. Thirty Day Use of inhalants is up in both the 10<sup>th</sup> and 12<sup>th</sup> grades. This same age group identify themselves a sensation seeking and nearly half do not perceive drug use as a risk. According to the 2004 report published by the 21<sup>st</sup> Judicial District Youth Court serving Ravalli County, drug offenses in Youth Court increased by 200% from 1995 to 2003. Twenty three percent of all criminal offenses handled by youth court were for alcohol, dangerous drug possession, or sale of drugs on or near a school.

Reported use of methamphetamine is increasing in Ravalli County. According to the National Drug Intelligence Center 12.6% of adolescence in Montana use methamphetamine compared to 9.8% nationally. Ravalli county ranks second in the state of Montana for discovery and arrests of clandestine methamphetamine labs, and methamphetamine was a factor in 75% of child abuse arrests in Montana in 2002. Montana is second in the nation for illicit drug use.

**Ben Howell**

**From:** Ferguson, Cindy [CFerguson@mso.umt.edu]  
**Sent:** Wednesday, August 02, 2006 10:10 AM  
**To:** Ben Howell  
**Subject:** Aspen Springs Development

Planning Board,

I just want to voice my displeasure to the proposed Aspen Springs Development. I live on 8 Mile Creek Rd and I am very worried about what that much growth will do to the water supply and the overall environmental impact. I know of several people whose wells have gone dry in the last year with the current development rates. I don't see how our schools can handle that much growth and fire and police protection is also insufficient for that large a development. I understand that the development would span over 20+ years but I think it's just too concentrated.

I also understand that they are asking for 8 variances. Why not just stick to our Subdivision Regulations? I know that money talks but what about all of us that live here already? I'd be really surprised if the local residents would be flocking to the new subdivision because of the cost of new housing and our local economics. Aren't you supposed to be looking out for your constituents?

Has the county done a full environmental impact report, I wouldn't trust the developer to give us the straight scoop. Legacy Ranch and Aspen Springs is not something that most of us in the Bitterroot Valley want. Developers are just trying to make a buck and to hell with the rest of us. Take care of us, take care of the Bitterroot Valley and DO NOT grant these variances.

Mike and Cindy Ferguson  
475 Eight Mile Creek Rd  
Florence, MT 59833

8/2/2006

**Ben Howell**

**From:** Ferguson, Cindy [CFerguson@mso.umt.edu]  
**Sent:** Tuesday, August 01, 2006 5:22 PM  
**To:** Ben Howell  
**Subject:** Aspen Springs Development  
**Importance:** High

Planning Board,

I just want to voice my displeasure to the proposed Aspen Springs Development. I live on 8 Mile Creek Rd and I am very worried about a development this large and the effect it will have on the water supply and the overall environmental impact. Our schools certainly won't handle that much growth. I understand that it will be over a 14+ year time period, but it's still too many. Has anyone (besides the developer) done an environmental impact study? I know several folks in the area who's wells have gone dry in the last year, with the growth as it is now. How about 600+ new septic systems.....

I don't want a development that size that close to my property, period.

I feel exactly the same way Shaen McElravy, Stevensville does:

"I know that commissioner Greg Chilcott has said repeatedly that county commissioners are afraid of being sued by developers. Well, the commissioners need to be worried about being sued by the citizens of the county they were hired to serve. The commissioners are under oath to protect the lives, freedoms and health of the citizens of their county. If they approve either of the proposed subdivisions without an environmental impact statement the citizens need to rise and have them removed from office.

It is all about time. We do not have time to undo the bell that was rung allowing mega subdivisions into our valley without a full environmental impact study.

It is time that we have real planning and zoning in place. Now, is the time to sign the petitions and get emergency interim zoning in place limiting subdivisions to one home on two acres.

Legacy Ranch - Aspen Springs not even once."

Shaen McElravy

Stevensville

Please listen to the folks living here - no Legacy Ranch and no Aspen Springs!!!!

Mike and Cindy Ferguson

475 Eight Mile Creek Rd.

Florence, MT 59833

8/2/2006



**Ben Howell**

---

**From:** Kathy Jarvis [kathyjarvis@pacblu.com]  
**Sent:** Friday, July 28, 2006 8:10 AM  
**To:** Ben Howell; Alan Thompson; Greg Chilcott; Betty Lund  
**Subject:** Please deny Aspen Springs

I respectfully request that you deny approval for the Aspen Springs subdivision. While I do not oppose growth in the valley, I feel the growth should be responsible. This proposed "town" in an area with no infrastructure to support it is simply not responsible growth and will be detrimental to our county.

Thank you for your courtesy,

Kathy Jarvis

Kathy Jarvis  
Customer Service Representative  
PACBLU Northwest  
P. O. Box 277  
Florence, MT 59833  
Phone: 406.777.1816  
Email: [kathyjarvis@pacblu.com](mailto:kathyjarvis@pacblu.com)

This electronic message is intended only for the individual or entity to which it is addressed and may contain information that is confidential and protected by law. If you are not the intended recipient of this e-mail, you are cautioned that use of its contents in any way is prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by e-mail or telephone and return the original message by e-mail to the sender.

7/28/2006

## Ben Howell

---

**From:** Eve Wight [emwight@centric.net]  
**Sent:** Friday, July 28, 2006 8:00 AM  
**To:** Ben Howell  
**Subject:** Aspen Springs

I have to admit, I've stayed out of the discussion about Aspen Springs in Florence. I thought, "This is so awesomely ridiculous that there is no way that anyone could possibly take them seriously." Now, time is passing and I am getting worried. The projected water use (400,000 gallons per day!) alone is more than enough to negate any serious consideration of this development. I realize development will occur. My family was part of development of previously bare land in the 8-Mile area a little over 15 years ago. I'm okay with that as long as it is done wisely. But here, in Riverview Orchards, the density has (with a few exceptions) been kept at 1 house for each five acres. It has been accepted that this is a reasonable density for wells and septic systems for this land. Then how can, within a stone's throw, there be a development with a density of 636 homes on 393 acres? It is so unreasonable as to be ludicrous. I'm still hoping that someone with some responsible reasoning abilities will step in and stop this madness soon.

## Ben Howell

---

**From:** mcgee@montana.com  
**Sent:** Tuesday, July 25, 2006 5:32 PM  
**To:** Ben Howell  
**Subject:** Aspen Springs

Dear Mr. Howell,

I live up 8 mile Road in Florence. I am very concerned about the Aspen Springs development. I wasn't aware that there is some large industrial operation in need of 600+ workers in Florence. This developer keeps focusing on the "affordable housing" for working people. Where will they work? Missoula? Great, increasing our dependence on foreign oil even more by increasing gasoline consumption and more cars on the roads means increased global warming. Increased global warming increases our fires. Just what we need; more fires.

Secondly I am more concerned about our water issues on this side of the highway. It has been known for a very long time that the east side of the highway has problems with water. Cisterns is not unheard of on this side of the highway. If this development is allowed even in reduced numbers, I will sue to maintain my water supply (water rights you know). You know I'm not alone on that issue. Ravalli will be know as the last best place for Lawyers to relocate to.

Somebody in this state has to draw a line. If we keep allowing these large developments, we won't be the last best place anymore. Wildlife will be depleted and the pollution will prevent people from wanting to vacation here. We will become just like any other place in the U.S. If people can't afford to live here---MOVE! We don't need the financial burden of increased taxes to support those who can not support themselves.

PLEASE STOP THIS INSANITY!

Sincerely,

Robbie McGee

WILLIAM S. RITCHIE

rec'd @ BCC mtg  
8/22/06

## ATTACHMENT G

August 22, 2006

Ravalli County Commissioners  
Hamilton, MT 59840

Dear Commissioners:

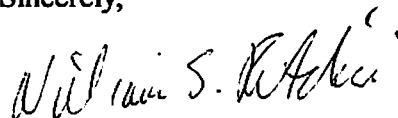
The county Planning Commission is to be congratulated for resisting the pressure applied by one man who is trying to squeeze a profit for himself from the public resources that you are entrusted to protect. You have an opportunity to show the citizens of Ravalli County that you represent them and that personal greed will not triumph over the public interest.

I only want to reinforce three points, which I know you are already aware of:

1. The developer is not making enough contribution to the impact on the over-stressed resources of the Bitterroot. Water, schools, law enforcement, traffic and fire fighting already are insufficient for the current population.
2. The cluster development does not work in a rural area.
3. The land and resources that you steward belong to not only current residents and developers; they belong to the generations that follow. If former generations had followed the policy of current economic development, there would be nothing left of the Bitterroot that we know; you would be Commissioners of a desert development.

Please deny the variances requested by Aspen Springs and send the message that Ravalli County is open for sensible development to enhance the quality of life of those lucky enough to live here.

Sincerely,



William S. Ritchie

rec'd @ BCC  
mtg. 8/22/06

To: The County Commissioners and Planning Board

July 24, 2006

## ATTACHMENT H

*We are*  
~~I am~~ adamantly opposed to the Aspen Springs subdivision. Our planning staff CANNOT handle this. You have eight (8) good reasons to deny this. Eight variances gives you 8 opportunities to say NO. This is IMPORTANT. This is precedent setting. We have to stop rolling over for the developers and running scared from their threats of lawsuits. We need you to lead us now. If you approve this, you will have started down a path that the people do not want. How will you EVER be able to deny another subdivision if you approve this?? The creation of a small town in our community should be the decision of the people. And we elect you to represent us. Listen to us. NOT to someone who has monetary interest in this only. PLEASE TAKE A STAND. You must. The community is at stake.

Andy Roubik *Andy Roubik*  
Sarah Roubik *Sarah Roubik*  
Corvallis, MT  
961-5212

ATTACHMENT I  
RECEIVED

AUG 22 2006

**SULLIVAN TABARACCI & RHOADES**

A Professional Corporation  
**Attorneys at Law**

Ravalli County Planning Dept.

IC-06-08-1325

Zane K. Sullivan  
Quentin M. Rhoades  
Darrel L. Moss \*  
Angela Zielinski  
Jason Jewett  
Kathleen A. Brandis^

Please reply to:

1821 South Avenue West, Third Floor  
Missoula, Montana 59801

Fax: 406-721-5838

John K. Tabaracci  
D. Scott Manning  
Chris A. Johnson ‡  
Andrew Pierce ‡  
Daniel S. Morgan

‡ Also licensed in Washington  
‡ Also licensed in Wyoming

^ Also licensed in Oregon  
\* Also licensed in Colorado

August 22, 2006

Greg Chilcott, Chairman  
Alan Thompson, Commissioner  
Betty Lund, Commissioner  
215 S. 4<sup>th</sup> Street, Suite A  
Hamilton, MT 59840

**RE: Aspen Springs**

Dear Chairman Chilcott and Commissioners Thompson and Lund:

I am writing on behalf of Wesmont Developers, Inc. This evening, the Commissioners will meet concerning Wesmont's proposed subdivision, Aspen Springs. As can be expected with such a proposal, many issues have arisen. Wesmont, has addressed these issues in prior correspondence and before the Planning Board. It is the intent of this letter to identify those which appear to be the most significant of the issues, so as to give you the background of each along with Wesmont's position on each. As you will see in reviewing this letter, this is not new information, but rather a summarization of issues and positions previously addressed to the Planning Department and Planning Board.

**1. Offsite Roads**

**a. County Roads (Eight Mile Creek Road to Lower Woodchuck Road, to Subdivision)**

- i. Previously Wesmont identified constitutional and other legal deficiencies in the Ravalli County Subdivision Regulations (RCSR) requiring a developer

to improve an offsite county road. (See, June 15, 2006 letter from Sullivan, Tabaracci & Rhoades, P.C.)

ii. Wesmont offered to improve these offsite county roads, provided a latecomer's agreement was entered, so it would be reimbursed by subsequent development which uses the same improved county roads. The Planning Board found this approach acceptable, in addressing Variance No. 7 and 8.

iii. Wesmont's initial application, anticipated a variance from building these roads, hence it submitted no road plans. Staff indicates road plans are required, per RCSR §3-2-16. However, that section did not require road plans at the time of the Aspen Springs subdivision application, in June 2005. That change was effective in August 2005, after the subdivision application. Additionally, the improvements would be to existing roadways, without changing road alignments. Wesmont would propose that the County condition the approval of this variance on final approval of the road plans by the County Road Department.

b. State and Federal Highways (Eastside Highway to Highway 93)

i. While the MDT admits it has no jurisdiction to require Wesmont make any improvements or contributions toward improvements to either the intersection of Eight Mile Creek Road and the Eastside Highway or the intersection of the Eastside Highway and Highway 93, it asked the County to do so for it. (See letter from Kailey (MDT), dated June 14, 2006).

ii. Wesmont has agreed to pay the County \$88,182.00 to address the changes MDT attributes to Aspen Springs at the intersection of Eight Mile Creek Road and Eastside Highway, as MDT suggested. (See, July 12, 2006 letter from Sullivan, Tabaracci & Rhoades, P.C.)

iii. Planning Staff states that Wesmont has not mitigated impacts to the intersection of Eastside Highway and Highway 93, as requested by the MDT June 14, 2006 letter.

(1) Subsequent to the June 14, 2006 letter from Dwayne Kailey, the Director of the MDT, in a memorandum to Governor Schweitzer, stated in regard to this intersection, "MDT does a statewide safety review every year and the intersection of S-203 [Eastside Highway]

and US93 has not been identified as an "accident cluster". This intersection has not been identified as warranting safety funds." (See, Memorandum from Lynch dated June 27, 2006).

(2) Wesmont has offered \$2,000.00 toward a traffic study for the intersection of Eastside Highway and Highway 93. This is appropriate mitigation for an intersection that does not, according to the Director of the MDT, warrant safety funds. (See, Memorandum from Lynch dated June 27, 2006)

## 2. Phasing Variance

a. The phasing limitations in RCSR §3-2-21, are irreconcilably repugnant to and in conflict with the purpose of the Subdivision and Platting Act, MCA §76-3-101 et. seq., which is to promote the orderly development of the County. (See June 15, 2006 letter from Sullivan, Tabaracci & Rhoades, P.C.)

b. The duration limits on variances, as set out in RCSR §8-1-11, would be met, as the first phase of Aspen Springs would be platted within 30 months. (See, July 12, 2006 letter from Sullivan, Tabaracci & Rhoades, P.C.)

c. Wesmont seeks to develop Aspen Springs in phases ranging from 8 to 43 lots each, over 10 to 22 years, much like approving a couple of 8 to 43 lot subdivisions each year. This approach allows for an orderly planned approach to the development, as opposed to haphazardly approving 20 lots here and 20 lots there with no consistency between them.

i. Phasing gives the County, neighbors and Wesmont predictability. All will know what will be developed over the life of Aspen Springs.

ii. This actually allows the County to look into the future - that is to look at the total of the phases in the current subdivision application.

iii. While the initial burden on the Planning Staff has been high, with the phasing plan the burden as the various phases are platted will be much less than if separate subdivision applications were submitted for each phase.

iv. Wesmont at the Planning Board meeting agreed to a cost of living adjustment for its voluntary mitigation that is tied to the platting of phases, so that as the cost of living (as gauged by the Consumer Price Index) changes, the amount of the mitigation would proportionally change.



- v. MCA §76-3-610 anticipates such extended phasing plans, as it allows for approvals longer than the standard three years, if subject to a written agreement between the developer and county.
  - vi. Phasing, as requested, mitigates against the impact of 600 plus lots coming on the market in a short four year period.
  - vii. Each phase, whether constructed in sequence or not will provide necessary infrastructure to that phase (i.e., all water, sanitary services and roads will be in place so that if no further phases were platted, the phases that were platted will stand alone).
- d. Wesmont is obligated to comply with the most current and stringent DEQ requirements for the water system, sanitary and storm water discharge systems which are in place at the time each phase is platted. It is further willing to comply with the performance standards set out in RCSR, Chapter 5, Articles 3-9, should those change over the course of the development.

### 3. Neighborhood Connections

- a. RCSR §5-4-4(d) requires “a road” in Aspen Springs connect to “a right-of-way or easement” in Riverview Orchards, to provide for proper inter-neighborhood traffic flow.
- b. There are only two “rights-of-way or easements” in Riverview Orchards which touch Aspen Springs, Mountainview and Meadowview Roads. These are public road rights-of-way, 40 feet in width, platted in the early 1900's. They don't meet width or improvement standards under the Ravalli County Subdivision Regulations.
- c. Owners in Riverview Orchards do not want traffic from Aspen Springs routed through their neighborhood. See Minutes from Public Hearing before Planning Board.
- d. The Ravalli County Road and Bridge Department has determined that Aspen Springs traffic flow will function more efficiently and will not pose a threat to public safety if Mountainview Road serves only as an emergency access. (See August 17, 2006 e-mail reply from Ohnstad) Lower Woodchuck Road has been designed to accommodate Aspen Springs' traffic and will direct traffic to a designed and controlled intersection with Eight Mile Creek Road. The emergency access connection to Mountainview will be made based upon a level of service (LOS) analysis. When the level of service on Lower Woodchuck changes from LOS A to LOS B (approximately 130 lots), the emergency access connection will be made.

The Road Department also supports that Eight Mile Creek Road (east/west) portion does not need to be improved, based upon the precedent set with Golf Course Road. Portions of Golf Course Road were not required to be improved because it was considered a secondary access. The portions of Eight Mile Creek Road (east/west) and Mountainview Road will be used for emergency access. The proposed barricade will be designed to meet Type III standards of the MUTCD and will incorporate breakaway posts for mounting the barricade.

e. Given the neighbors' professed preference [and Road Department approval], the proposed emergency access, allowing emergency vehicles and emergency traffic into and out of Aspen Springs through Mountainview is proper inter-neighborhood traffic flow. (See June 21, 2006 Letter from Sullivan, Tabaracci & Rhoades, P.C.)

#### 4. Florence Carlton School District

a. Wesmont has proposed voluntary mitigation of \$300.00 per lot, as each phase is filed, for a total of \$192,900. This is \$50.00 more per lot than any other known development in Ravalli County.

b. The Florence-Carlton School District proposed mitigation of \$5,312.50 per lot, for a total of \$3,415,937.50. The School District based this solely on the cost of erecting a new 34,000 square foot structure at a cost of \$100.00 per square foot. (See June 29, 2005 Letter and attachment from Superintendent McGee.)

c. MCA §76-3-510 clearly states, "a local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education." (See July 27, 2006 letter from County Attorney Corn.)

d. All the School District requested is to construct capital facilities, the County cannot legally require Wesmont to bear this cost. This may be legally accomplished through impact fees, which if adopted would be paid as new homes are built in Aspen Springs, and throughout the School District.

#### 5. Lot "Relocations"

a. Staff requested Wesmont to "relocate" 28 lots in the northeast corner of the project based on a Fish, Wildlife and Parks comment that this area is in Elk Winter Range.

- b. The County has approved many subdivisions further to the east into the Elk Winter Range, for example Gunshy III.
- c. Public comment confirmed that there is no sign of elk using the northeast corner of the property.
- d. This public comment was confirmed by FWP's onsite inspection of July 18, 2006. In a letter reporting on that inspection, FWP noted "he did not find any elk sign, although the area is certainly suitable for elk and connected by native vegetation and favorable landforms to occupied elk winter range nearby." (See, July 21, 2006 Letter from FWP.)
- e. Before submitting its subdivision application, Wesmont retained wildlife biologists and made a conscious decision to not improve the open ridge lines to the west of the area where the 28 lots are located. There is no place to relocate these lots that wouldn't pose the same or greater issues. Essentially staff is asking that these lots be eliminated because they are on the fringe of an arbitrary elk winter range boundary, in spite of no evidence that elk use the property.
- f. MCA §76-3-608 allows the County to reasonably mitigate potentially significant adverse impacts. If elk don't use this area, there is no potentially significant adverse impact to mitigate and no basis for elimination of these lots.

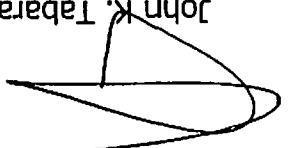
#### 6. Sheriff's Department

- a. Staff Report interprets Sheriff Hoffman's July 24, 2006 letter as saying the offered \$100.00 per lot mitigation (to be paid as lots are platted) will not mitigate the impacts of Aspen Springs.
- b. The Staff Report, does not fully describe the Sheriff's answer.
  - i. Wesmont is the first developer to ever offer mitigation to the Sheriff's Department. Sheriff Hoffman did not refuse the offered mitigation. (See, letter from Sheriff Hoffman, dated July 24, 2006.)
  - ii. Sheriff Hoffman described an existing problem in providing services, that will continue whether Aspen Springs is or is not developed. That mitigation will not make a substantive difference in Sheriff's ability to provide law enforcement services. The problem is an existing problem, as the "ability to provide services has not kept pace with growth." Wesmont cannot be reasonably expected to solve this failure to keep up with growth itself, but it remains willing to do its part.

Greg Chilcott, Alan Thompson & Betty Lund  
August 22, 2006  
Page 7

Thank you for your attention to these issues, and your work in reviewing Westmont's application for Aspen Springs. We look forward to further discussing Aspen Springs and these issues at this evening's Commissioners' Meeting.

Sincerely,  
SULLIVAN, TABARACCI, & RHOADES, P.C.

  
John K. Tabaracci  
JKT/acp  
Enc  
cc: Westmont



## SULLIVAN TABARACCI & RHOADES

A Professional Corporation

*Attorneys at Law*

**COPY TO CLIENT**

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‡ Also licensed in Wyoming

June 15, 2006

Ravalli County Planning Board  
Ravalli County Planning Department  
215 South 4th Street, Ste. F  
Hamilton, MT 59840

### **RE: Aspen Springs**

Dear Planning Board Members:

As you may recall from the Plat Evaluation Meeting, of June 7, 2006, I represent Wesmont Developers, Inc. I am writing concerning some of the legal issues raised at that meeting, including several of the variance applications submitted as part of the Subdivision Application. I am also writing to address your interest, expressed at that recent meeting, in the legal issues surrounding pro rata share. I intend this letter to be part of the record and respectfully request you consider it in your evaluation of my client's Subdivision Application and variance requests. Further as the issues raised are legal issues, Wesmont reserves its right to institute appropriate legal action, if the need arises. I do not intend this as a threat, but want the Planning Board and Ravalli County to clearly understand these issues are serious issues and that Wesmont intends to see to it that its legal rights are protected.

This letter addresses several issues, offsite road improvements and the pro rata share issues; phasing, flag lots and the intersection of Highway 93 and the Eastside Highway. Each is addressed under the headings below.

## Offsite Road Improvements –

### *Pro Rata Share –*

Primarily and most significantly, the requirements of RCSR Section 5-4-5(b) (4) to bring county roads up to county standard exceeds the constitutional requirements established in Nollan v. California Coastal Commission, 483 U.S. 825 (1987), and Dolan v. City of Tigard, 512 U.S. 374 (1994). These two cases establish a two part test as follows:

- (1) The first test asks, does an “essential nexus” exist between a legitimate state interest and the exaction sought by the County.
- (2) The second test asks whether there is a rough proportionality between the County’s demand, and the impact of the development.

As to the first test, we agree that the County’s interest in providing safe road access to this part of the County is a legitimate state interest and that an essential nexus exists between that interest and a requirement to improve the roads. However, the failure to meet constitutional requirements arises pursuant to the second part of the test – rough proportionality. Certainly as Aspen Springs is developed over the years it will generate a number of additional vehicle trips per day. Those numbers were included in the materials submitted with the subdivision application. However, others beside Aspen Springs currently use and others in the future will use these roads. RCSR Section 5-4-5(b) (4) wholly ignores this simple fact, when it requires a developer to improve existing substandard county roads that lead to a proposed development.

In Christopher Lake Development Company v. St. Louis County, 35 F.3d 1269 (8th Cir 1994) the Eighth Circuit Court of Appeals considered a matter where St. Louis County, Florida sought to require a developer to subsidize a drainage system for an entire costal watershed. In considering whether the developer’s complaint should have been dismissed, the Eighth Circuit commented as follows:

Furthermore, from our review of the record, the County has forced the Partnership to bear a burden that should fairly have been allocated throughout the entire watershed area. ‘A strong public desire to improve the public condition will not warrant achieving the desire by a shorter cut than the constitutional way of paying for the change.’ [Citing Dolan] We believe that the Partnership [the developer] is entitled to recoup the portion of its expenditures in excess of its pro rata share and remand to the district court to determine the details and amounts.

While Aspen Springs, when built out, will add to the use of the road in question, it is not the only property served by Eight Mile Road or Lower Woodchuck Road. The amended plat of Riverview Orchards depicts 115 individual lots, not including Circle Square and the numerous different parcels created by certificate of survey which are presently accessed off Lower Woodchuck and which have used the access off this same road for a substantial period of time (likely contributing to its present condition). It further doesn't account for the additional subdivisions for which applications have been filed and which are on the horizon and located generally to the east and south of Aspen Springs. Nor does it account for the potentially developable property located to the west of Aspen Springs. To require Wesmont to improve this entire county road system is a burden that should be shared by all property owners who benefit, not just Wesmont.

A similar consideration is present in the timing of the exaction. The county would require Wesmont to make the road improvements or pay a full pro rata share immediately, while it is expected that the total build out of the 600 units will take place over a number of years. A requirement that the road immediately be improved or pro rata share paid in full to accommodate a traffic demand that is years down the line, does not meet the rough proportionality test. The extent of the demanded exaction would substantially exceed the immediate impact of the subdivision. This though would not be the case, should the timing of the demanded road improvements fit more closely with the build out of the subdivision, as Wesmont has proposed.

Secondly there is an inconsistency in the Ravalli County Subdivision Regulations (RCSR), between the following sections:

5-4-5(b)(4) addressing paving, provides,

Before 8/4/05 - "21 or more lots. All roads within the subdivision shall be paved. All subdivisions of 21 or more lots shall acquire all proper easements, and all roads (county or private) leading to the subdivision shall be brought to county standards as defined in section 5-4-5(c) of this Code from the nearest county standard road." (emphasis added)

After 8/4/05 - "Twenty-one or more units. All roads serving 21 or more units within the subdivision shall be paved and all plans shall be prepared by a licensed professional engineer who has provided evidence of coverage by a commercially reasonable policy of errors and omissions insurance of not less than \$1,000,000.00/occurrence limits. All subdivisions of 21 or more units shall acquire all proper easements, and all roads

(county or private) within and leading to the subdivision along the primary route of access shall be brought to county standards for new construction from the nearest county standard road which meets the County standards for new construction over its length that lies on the primary access route to the subdivision." (emphasis added)

5-4-5(d) provides,

Before 8/4/05 - "Substandard County-Maintained Roads. Where a subdivision is accessed by a substandard County-maintained road(s), the developer shall contribute to the County an amount equal to the pro rata share of the improvements necessary to bring said road(s) up to county road standards as described in section 5-4-5(c) of this Code. If the County does not use the contribution within seven years, the County shall reimburse the developer upon the written request from the developer. In those situations where a County road is totally substandard and it is unlikely that the County will complete the necessary improvements in the next 7-year period, the developer shall bring the road(s) up to the appropriate road standard." (emphasis added)

After 8/4/05 - "Substandard County Roads. Where a subdivision is accessed by a substandard County road(s), the developer shall contribute to the County an amount equal to the pro-rata share of the improvements necessary to bring said road(s) up to County road standards as described in the County's adopted standards over its relevant length as listed in Table A-1. Pro rata funds will be deposited in an account for the road grader district in which the subdivision is located, and will be utilized only for road improvements on roads within that district. Road grader districts shall relate to defined geographic areas which will ensure that the use of the pro rata funds will benefit the developments which are the sources of the funds. These districts are identified in Road Grader District Exhibit 1. If the County does not use the contribution within seven years, the County shall reimburse the developer upon the written request from the developer provided that the request is received prior to use of the contribution." (emphasis added)



There is a significant inconsistency in the RCSR sections quoted above, when it comes to substandard county maintained roads. The first, 5-4-5(b) (4), says all such roads shall be brought to county standards, the second, 5-4-5(d), requires a pro rata contribution.

Courts, in interpreting statutes, will first try to give effect to all sections, if that isn't possible due to an irreconcilable inconsistency, then the courts will give effect to the more specific provision over the more general. We submit that the second, 5-4-5(d) is the more specific of these two, as the first deals with both roads within and outside the subdivision, while the second addresses only roads outside the subdivision.

Finally, in 2005 the Montana Legislature enacted SB 185, addressing impact fees. In a sense SB 185 grandfathers existing impact fee structures via un-codified savings and effective date clauses. For a general powers government, as is Ravalli County, SB 185 "applies only to the portion of an impact fee ordinance or resolution enacted or amended by a self-governing local government on or after the effective date of the act" (April 19, 2005). In August 2005, Ravalli County amended the sections it relies on to assert the entitlement to offsite road improvements. In doing so it didn't undertake the studies or the formalities required by SB 185. As such the RCSR Section 5-4-5(b) (4) is not an enforceable impact fee.

Wesmont has proposed a pro rata payment for improvements to Eight Mile Road and Lower Woodchuck Road (up to the point it becomes a gravel road), which pro rata payment would coincide with the platting of the various phases of Aspen Springs. In this way Aspen Springs will pay its fair share of the costs to bring these roads up to County standards and so too will the other current and future users of these roads. To say that this requires a variance ignores the fact that RCSR Section 5-4-5(b) (4) unconstitutionally places too heavy an exaction on Wesmont.

*Use of Pro Rata Share* – An additional concern is the provision for a pro rata share to be paid to the road grader district, with no obligation for the County to actually improve the substandard County road leading to the subdivision. As mentioned above an essential nexus must exist between a legitimate state interest and the exaction sought. This essential nexus all but disappears when the monies paid on the pro rata share are not used and do not have to be used to improve the substandard County road triggering the pro rata payment in the first place. As written the regulations could well result in a number of different developers paying a pro rata payment for the improvement of a road, the total pro rata exceeding the actual costs to improve the road – all without the road being improved. It is for this reason Wesmont has asked and hereby asks for the pro rata payments to be specifically earmarked for improvements to Eight Mile Road and Lower Woodchuck Road.

**Phasing** – RCSR Section 3-2-21 places severe restrictions on phasing of subdivision developments. In particular it limits developers to only two phases. In *Burnt Fork Citizens Coalition v. Board of County Commissioners of Ravalli County*, 287 Mont. 43, 951 P.2d

1020 (1997) the Montana Supreme Court supported local regulations, which were not “plainly and irreconcilably repugnant to or in conflict with the [Subdivision and Platting] Act.”

MCA §76-3-501 requires the County to adopt and provide for the enforcement and administration of subdivision regulations reasonably providing for the orderly development of its jurisdictional area. To enact a local regulation prohibiting more than two phases, the County is doing just the opposite of providing for the orderly development of the County. It is providing for a haphazard and inconsistent approach to planning, leading developers to propose more smaller, separately designed, reviewed and approved subdivisions, as opposed to a planned approach as Wesmont proposes with Aspen Springs. Because the limitations in RCSR Section 3-2-21 are irreconcilably repugnant to and in conflict with the provisions of MCA §76-3-501, those limitations are unenforceable, under the law. As they are unenforceable, the County should not require Wesmont to pursue a variance in regards to them.

**Flag Lots** – RCSR Section 5-2-2 (7) addresses “flag lots”. In part it limits the “stem” on flag lots to no more than 660 feet. None of the flag lots proposed in Aspen Springs has a stem near that length. Frankly the length of the stems on the proposed flag lots doesn’t exceed 660 feet in total. RCSR Section 5-2-2 (7) also provides that “. . . flag lots shall not be used to avoid road construction.” As testified to at the recent Plat Evaluation Meeting, Wesmont proposes the flag lots for the purpose of creating a variety of lot types. Not all prospective owners desire their lot to be located on a street. The flag lots were not proposed to avoid road construction. There is no evidence that Wesmont proposes these to avoid road construction. As there is no evidence of such intent, there is no need for a variance.

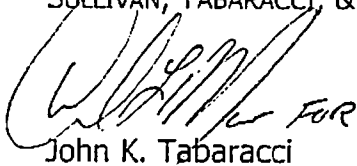
**Additional Traffic Study (Intersection of Highway 93 and Eastside Highway) –**

Comment was made at the recent Plat Evaluation Meeting concerning a study of the intersection of the Highway 93 and Eastside Highway. It is Wesmont’s position that it is not legally obligated to provide such a study. Initially, RCSR Section 3-2-14 contains no limitation on the scope of the required traffic impact study. All statutes and regulations must be interpreted so as to be reasonable. As written RCSR Section 3-2-14 could be read to require traffic study from Aspen Springs all the way to the Ravalli County Courthouse. Such an interpretation is of course unreasonable, as is any request to study the intersection of Highway 93 and the Eastside Highway. Wesmont submitted its traffic study, which was apparently acceptable to Planning Department, as no deficiency was noted calling for an increase in the scope of the study to address the intersection of Highway 93 and Eastside Highway. Supplementing this is the simple fact that Highway 93 is a federal aid highway and the Eastside Highway is a state highway. Neither the County nor Wesmont can effect any changes or improvements to those, as each is under control of the State Department of Transportation. MCA §60-1-201 classifies public highways and distinguishes between federal-aid or state highways and county roads or city streets, the

latter being defined as those public highways under the jurisdiction of county or municipal officials respectively. MCA §60-1-102 indicates the legislative intent to make the Department of Highways the custodian of the federal-aid and state highways. MCA §60-2-203 and 60-2-210 require the department to maintain state highways within incorporated municipalities. On the other hand, local authorities are expressly precluded by MCA §61-8-203 from placing or maintaining a traffic control device upon a highway under the jurisdiction of the department. See generally, 37 Mont. Op. Atty. Gen. 496 and 41 Mont. Op. Atty. Gen. 35. Approximately a year ago Wesmont solicited comment from the Montana Department of Transportation. To date no written comment has been received, which would indicate that it had any concern about this intersection or Aspen Springs. If study is needed, it is the State's call to so comment. It hasn't done so.

As I mention above, it is not my intent to threaten either this Board or the County. Still, the law is the law, and the County is obliged to follow it and Wesmont intends to see that it does. It is my desire that this Board and the County recognize this, and we are able to address these significant issues.

Sincerely,  
SULLIVAN, TABARACCI, & RHOADES, P.C.



FOR  
John K. Tabaracci

JKT/acp

cc: James McCubbin ✓  
Perry Ashby ✓  
WGM Group ✓



RECEIVED


JUN 26 2006  
1C-06-06-994  
Ravalli County Planning Dept.

## RAVALLI COUNTY ATTORNEY

205 Bedford Street, Suite C, Hamilton, MT 59840-2853  
Phone (406) 375-6222 Fax (406) 375-6328

### Memorandum

TO: Karen Hughes, Ravalli County Planning Department  
Ben Howell, Ravalli County Planning Department

FROM: George Corn 

DATE: June 26, 2006

RE: Aspen Springs . . . comments

Karen and Ben,

Attached is a copy of a letter from Dwane Kailey regarding the Aspen Springs matter. Does this letter answer your questions or do I need to obtain more information? Please let me know, and I will follow up accordingly. Thank you.

GHC/jw



Missoula District Office  
2100 W Broadway  
PO Box 7039  
Missoula, MT 59807-7039

June 14, 2006

George H. Corn  
County Attorney  
Ravalli County Courthouse  
205 Bedford Street, Suite C  
Hamilton, MT 59840

Subject: Aspen Springs Development

George, thank you for writing me in regards to this development. Let me apologize that we haven't responded to the county sooner on this issue.

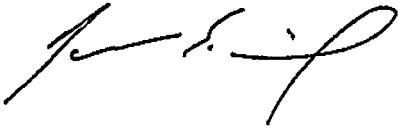
First off, MDT is working on the plans for reconstructing the section of S-203 from approximately Bull Run to the intersection of US93. We currently have a tentative letting date scheduled for January 2008. This project does include improving the intersection of Eight Mile Road and S-203. The project manager for this project is actually Bill Squires in Helena. However, feel free to correspond with myself or Shane Stack.

In regards to the impact of Aspen Springs on our design, we have reviewed the Traffic Impact Study (TIS) for the development and it has caused us modify the design. To be specific, we originally designed a standard single lane round-about. This design accommodated what we anticipated the 20 year growth to be. However, after reviewing the TIS for Aspen Springs we have had to add two right turn slip lanes onto the round-about. I have attached a cost estimate detailing the cost of this modification. The total based on current inflation and pricing for the area is \$88,182. It is our belief this additional cost is attributable to the Aspen Springs development and should be assessed to that development. However, state law prohibits MDT from assessing the fee as this development does not directly access at this intersection.

In regards to the intersection of S-203 and US93, I do believe the developments of Aspen Springs and Legacy Ranch will have drastic impacts on this intersection. Due to the proximity of the R/R and improvements at this intersection, mitigation such as a dedicated right turn lane will be extremely expensive. I believe the Department and Ravalli County should work with the developers to assess their respective impacts to this intersection as well as appropriate mitigation. I further believe we should strive to find a funding source for these improvements. The Department has no identified available funding for improvements within this area beyond the already programmed projects.

George, I hope this answers your questions. If you wish to discuss this further, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Kailey', with a stylized flourish at the end.

Dwane E. Kailey, P.E.  
District Administrator

copies: Sandy Straehl  
Karen Hughes  
Ben Howell  
Ravalli County Commissioners  
Dave Ohnstad  
File

Preliminary Estimate

Project Title: FLORENCE - EAST  
 Project Number: BR-STPS 2203-1(11)10  
 Project Length: N/A  
 Des. Super. Approval:  
 Project Cont. Number: 4854

Prepared by: W. M. Squires ("District Unit Prices" determined by review of recent bid tabs)  
 Date: June 13, 2006  
 Location: RAVALLI CO.  
 Type of Work: Additional cost to provide SB-to-WB &  
 D.A. Approval: EB-to-SB "slip lanes" around roundabout

Item Number	Quantities	Description	Unit	Average Bid Prices		District Unit Prices	
				Unit Prices	Amount	Unit Prices	Amount
				Dollars	Dollars	Dollars	Dollars
104100000	100	MISCELLANEOUS WORK	UNIT	\$1.00	100		100
203200000	4200	EXCAVATION-UNCLASS BORROW	M3	\$3.61	15,162	\$4.00	16,800
301270000	728	CRUSHED AGGREGATE COURSE	M3	\$19.32	14,065	\$24.00	17,472
301440010	2800	COVER - TYPE 1	M2	\$0.41	1,148	\$0.50	1,400
401080000	576	PLANT MIX BIT SURF GR S - 19 MM NV	MT	\$16.09	9,268	\$24.00	13,824
401100000	5.1	DUST PALLIATIVE	MT	\$92.93	474	\$150.00	765
401200000	9	HYDRATED LIME	MT	\$118.98	1,071	\$150.00	1,350
402088000	31.1	ASPHALT CEMENT PG 64-28	MT	\$259.83	8,081	\$380.00	11,818
402200000	644	EMULSIFIED ASPHALT SS-1	L	\$0.23	148	\$0.70	451
402225000	5.1	EMULSIFIED ASPHALT CRS-2P	MT	\$245.10	1,250	\$450.00	2,295
		Subtotal			50,767		66,275
	0%	Traffic Control			0		0
	0	Traffic Control Devices	Units	0.00	0		0
	0	Flagmen	Hours	0.00	0		0
	0	Pilot Car	Hours	0.00	0		0
		Subtotal			50,767		66,275
	8%	Mobilization			4,061		5,302
		Subtotal			54,828		71,577
	15%	Contingency			8,224		10,737
		Subtotal			63,053		82,314
	3%	Inflation	Years	2.33	4,496		5,869
		Construction Total			67,548		88,182
	10%	Construction Engineering			6,755		0
		Total			74,303		88,182



# SULLIVAN TABARACCI & RHOADES

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July 12, 2006

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Ravalli County Planning Board  
Ravalli County Planning Department  
215 South 4th Street, Ste. F  
Hamilton, MT 59840

## RE: Aspen Springs

Dear Planning Board:

The Staff Report identified six recommendations for additional information. Subsequently the Staff report was amended to delete the original sixth recommended item, replacing it with another. The following is Wesmont's response to these six recommendations.

1. Wesmont has proposed an emergency access as the connection to Riverview Orchards. The emergency access will be designed and built as other roads within the subdivision, pursuant to Ravalli County Regulations. Wesmont is further willing to develop and build parallel to the emergency access a bicycle, pedestrian and equestrian trail. Section 5-4-4(d) requires "Roads in a new development shall be connected to a right-of-way or easement in adjacent platted areas to allow for proper inter-neighborhood traffic flow." This section intentionally gives the Planning Board and Commissioners flexibility to determine what constitutes "proper inter-neighborhood traffic flow". What is proper can vary from development to development. The Aspen Springs subdivision roads were designed to address the

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COPY TO PLANNING BOARD  
*Wesmont*



neighbors expressed preference that Aspen Springs traffic not flow through Riverview Orchards. We believe this constitutes "proper inter-neighborhood traffic flow" for this development.

2.

The Planning Board should not support the staff's recommendation to "relocate" Lots E124 thru E151 and B147 thru B149. It's worth noting the only places where such lots might be relocated are the very ridge tops and drainages that Wesmont is trying to protect. The staff supports this based on a less than exact map of elk winter range, FWP comments and an unsubstantiated concern of the flood plain coordinator for flash floods. Wesmont has designed Aspen Springs in a manner to best protect any wildlife, by protecting the natural drainages and ridge tops. Testimony from owners of property immediately adjoining the area in question indicates that there has been no sign of elk in the area, no sightings, no horns, no carcasses and no "scatological evidence". So too, the reports from wildlife experts retained by Wesmont would not support the recommendation of staff.

For lots E124 thru E151, there is also no basis for removal due to flash flooding or drainage ways. Flash flooding is not a phenomena common in Montana. Flash flooding occurs near the bottom of a drainage way. This area is near the very top of a drainage basin. Water will be routed as shown in the site plans included with the submittal. The yard areas will drain away from the homes and into the streets. The streets are designed with curbs and gutters to carry the storm water into the storm water system. A technical storm drainage analysis of this area has been completed and included to provide the depth of flow of water in a 100 year event. Many years of data has been collected to create storm hydrographs to ensure stormwater is appropriately designed and mitigated in development projects. There is no basis for flash flooding in the area of lots E124 thru E151.

In the case of removing lots B147 thru B149, site plans have been submitted for these lots and a home can be constructed so that footings are on native soils. There is no threat of water from a drainage way because all of the drainage area upstream will be converted from open range lands to platted lots, streets, and alleys. All storm water will be routed through a storm water system into the major drainage way and will be detained in the proposed detention pond. There is no drainage basin to threaten lots B147 thru B149, thus no basis to remove or re-locate these lots.

3.

Wesmont has visited with Dwane Kailey, with the MDT, since July 5, 2006. Wesmont expressed its willingness to pay the monies requested in MDT's June 14, 2006 letter, specifically \$88,182.00, in payments of \$138.00 per lot to be paid as each phase is platted. Additionally Wesmont proposed to pay MDT \$2,000.00 to

help fund a traffic study for the intersection of Highway 93 and the Eastside Highway (State Route 203). Another large developer has verbally agreed with Wesmont to make a similar contribution. The Planning Board should not support the staff's recommendation to have Wesmont work with MDT for further mitigation of this intersection. Such a requirement is too open ended, placing the very fate of the subdivision in the hands of MDT. Further this will unreasonably delay approval of the preliminary plat or final platting, if made a condition of final platting. To know what mitigation might be needed will take a traffic study, which has yet to be undertaken, followed by an analysis of the study and engineering to address the issues raised by the study. This would likely take in excess of a year to accomplish and perhaps longer. The mitigation proposed by Wesmont is reasonable and to decide otherwise will unreasonably restrict the development of Aspen Springs.

4. In order to mitigate the impacts of Aspen Springs, Wesmont offered to provide land at a joint location, within Aspen Springs, for a public safety facility that can serve both the Fire Department and the Sheriff's Department. This would help to satisfy the need for a "substation" at the north end of the valley that has been identified in the Tischler report. Additionally, Wesmont proposes to pay a \$100.00 per lot voluntary mitigation fee, to be contributed to the Public Safety Fund. The contribution will be made before the issuance of a State Electrical Permit when each home is constructed.
5. Wesmont is willing to provide a design and specification for a bicycle and pedestrian trail, suggested. Wesmont further believes that a design that would accommodate equestrian use is appropriate for the area. Such a trail design would be of a crushed gravel surface and located in the right-of-way of Lower Woodchuck Road. Wesmont has consulted with the County Road Supervisor, Dave Ohnstad who was fully in support of such a plan. Wesmont would support this as a condition of final plat approval, but proposes that the gravel trail not be constructed until such time that a connection from the intersection of Eight Mile Creek Road and Lower Woodchuck Road be made to the East Side Highway.
6. Wesmont has revised the lot layout as requested by the Park Board and is pursuing approval from the Ravalli County Road and Bridge Department on the revised roads that were necessary to accommodate the Park Board Comments. In addition, Wesmont proposed a conceptual plan as to the location of the trails within the development. The trails are proposed to be primitive hiking and biking trails. The final location of these trails is approximate and will not be finalized until the platting of each phase. Sidewalks are being proposed throughout the subdivision for pedestrian connections. Wesmont is willing to work with the Park Board, in regard

Ravalli County Planning Board  
July 12, 2006  
Page 4

to developing the public parks. Wesmont understands the Park Board and Wesmont will contribute toward the park development.

WGM Group has or will at the hearing provide additional materials further addressing these recommendations.

Sincerely,  
SULLIVAN, TABARACCI, & RHOADES, P.C.



John K. Tabaracci

JKT/acp

cc: Wesmont

[jmccubbin@ravallicounty.mt.gov](mailto:jmccubbin@ravallicounty.mt.gov)

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JUL 17 2006



Department of Transportation

Box 201001

Helena, MT 59620-1001

Ravalli County Planning Dept.  
Public Hearing

## Memorandum

To: Governor Brian Schweitzer

From: Jim Lynch, Director

Date: June 27, 2006

Subject: US 93 and Secondary 203

The Montana Department of Transportation (MDT) is currently designing the Florence-East project scheduled for letting January 2008. This project will make improvements along S-203. To increase the function of the intersection, the railroad tracks will need to be moved or realigned. All of this extra work was outside the scope of the project and beyond available funding, therefore MDT chose to go ahead with the improvements and work with the county to find a solution for the future of the intersection.

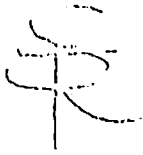
MDT is currently working on a corridor study along US93 from south of Florence to Missoula. This investigation is specifically looking at the impacts growth and developments are having on the corridor.

To date there are no other MDT projects planned in this area.

MDT does not have the authority to require either Legacy or Aspen Springs developments to provide improvements at the intersection of S-203 and US93. MDT only has jurisdiction to require improvements from a development at their point of access. However, we are working with the county to try and identify additional funding sources for future improvements at this intersection.

MDT does a statewide safety review every year and the intersection of S-203 and US93 has not been identified as an "accident cluster". This intersection has not been identified as warranting safety funds.

Copies: Dwane Kailey, MDT Missoula District Administrator



## SULLIVAN TABARACCI & RHOADES

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July 12, 2006

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Ravalli County Planning Board  
Ravalli County Planning Department  
215 South 4th Street, Ste. F  
Hamilton, MT 59840

### RE: Aspen Springs

Dear Planning Board:

Previously I have written the Planning Board regarding certain legal issues, concerning the Aspen Springs subdivision application. This letter is intended to identify those issues, and to provide Wesmont's position on each. I do not intend to go into the detail in regard to most of the issues, as my prior letters have done so.

Offsite Road Improvements – Previously Wesmont has advised the Planning Board of constitutional deficiencies in the Ravalli County Subdivision Regulations concerning offsite road improvements; that the regulations are not authorized impact fees and of inconsistencies within the Regulations themselves. To address these issues, Wesmont has proposed to improve, to county standards, that portion of Lower Woodchuck Road, which is presently a gravel surfaced road and to pay its pro-rata portion of the costs of improving the remainder of Lower Woodchuck Road and Eight Mile Road to the intersection with the Eastside Highway. Wesmont may also be willing to consider fully building out Lower Woodchuck and Eight Mile Road to the intersection with the Eastside

Highway, prior to the platting of the fourth phase of Aspen Springs - if the county would enter a latecomer's agreement, obligating the County and any subsequent developments to pay their proportionate share of the costs of such improvements, reimbursing Wesmont for the cost and expense it incurs in developing these roads.

Phasing – Wesmont previously advised you of its position that Section 3-2-21 of the Regulations is irreconcilably repugnant to and in conflict with the provisions of MCA §76-3-501, requiring orderly development. At the July 5, 2006 Public Hearing, an individual asserted that the phasing variance would expire after thirty months. The Regulations (Section 8-1-11) states, "An approved variance shall run with the land and shall expire 30 months after the date of approval or earlier by Board action, unless the final plat is filed." This section is designed to prevent variances from remaining viable indefinitely, if the subdivision does not occur and final plat of a subdivision is not filed. Here Wesmont fully intends that the final plat of its first phase will be filed within that 30 month window satisfying this Regulation. Regardless, implicit in Wesmont's requested variance from the Regulations phasing limitations, is a request for a variance from this duration limitation. The Subdivision and Platting Act very specifically allows a preliminary approval to remain open for up to three years, and longer pursuant to an agreement under MCA §76-3-507. To the extent the duration limit for a variance is inconsistent with this, like the limit on phasing itself, it is irreconcilably repugnant to and in conflict with the provisions of the Subdivision and Platting Act, and thus unenforceable.

Flag Lots - Section 5-2-2 (7) prohibits flag lots only where there is an intent to avoid road construction. This Regulation calls upon the Planning Board and Commissioners to make a determination of the developer's intent. As recognized by Staff, there is no such intent in this instance. Rather the only evidence presented is that the flag lots are proposed as a design feature, not to avoid road construction.

East Side Highway Issues – This issue has changed significantly since my original letter to the Planning Board. Since then we have learned that MDT has requested some \$88,000.00 to fund a slip lane at the intersection of Eight Mile Road and the Eastside Highway and that it (MDT) wants Wesmont and other large developers in the area to participate in addressing the intersection of Eastside Highway and Highway 93. These areas posed traffic safety issues before Aspen Springs was ever conceived. Wesmont is willing to bear its share of the load and has expressed its willingness to pay the \$88,000.00 on a per lot basis, as its lots are platted and to contribute \$2,000.00 toward a traffic study. This is all the mitigation required. MCA §76-3-608 only requires a developer to "reasonably minimize potentially significant adverse impacts" and requires the County to not "unreasonably restrict a landowner's ability to develop land" and to "consult with the subdivider and give

due weight and consideration to the expressed preference of the subdivider." To require either as a condition to proceed with the subdivision application or as a condition for final plat approval that Wesmont "work with the MDT to identify and mitigate impacts of Aspen Springs on the intersection of Eastside Highway and US Highway 93" goes well beyond reasonable mitigation. It essentially delays the subdivision for the time it would take the MDT to study that intersection and develop a plan to resolve what problems the study presents. It further conditions the subdivision on getting the MDT's approval of the mitigation giving the MDT carte blanche to exact whatever it might want, regardless whether it is reasonable.

Schools – The staff has recommended as a condition of approval that Wesmont "submit a letter or receipt from the Florence-Carlton School District stating that they have received an amount per lot (to be recommended by the Planning Board and approved by the Board of County Commissioners) . . ." Staff is asking the Planning Board to recommend an amount. Wesmont some time ago agreed to a mitigation fee of \$150.00 per lot as requested by the School District's former Superintendent. Wesmont is aware of no other subdivision paying in excess of that sum, despite the School District's subsequent demands. All would agree that the School District needs financial support and improved facilities. However, putting the financial burden on one developer is not appropriate. Montana law provides for the enactment of impact fees. It establishes a process for determining and imposing impact fees, as new homes are built. Wesmont submits that impact fees are the vehicle for addressing the School District's needs, as opposed to increasing the amount of the mitigation fee.

Interconnections – Again this topic was addressed thoroughly in my prior letter. The point of emphasis here, is that what constitutes proper inter-neighborhood traffic flow, can well be different from development to development and it is the Planning Board and Commissioners' role to decide if the interconnections are proper. Here, given the expressed desires of the neighbors, the interconnections proposed by Wesmont are proper.

Relocation of Lots – This issue has arisen since my last correspondence. As stated above, MCA §76-3-608 only requires a developer to "reasonably minimize potentially significant adverse impacts." This requires first a determination that a potentially significant adverse impact exists. Testimony of the neighboring owner to the north of Aspen Springs and that of Wesmont's experts, clearly shows that elk do not use the northeasterly part of Aspen Springs. Testimony from Wesmont's engineers demonstrates that these lots do not pose any sort of risk to flash flooding. There is simply not a potentially significant adverse impact to merit the elimination or relocation of these lots. Moreover, if the County follows down this path, all properties to the east, and within the same elk winter range must be

treated the same (though they haven't in the past) and the effect is one of inverse condemnation of these lands.

Variance Issues – During public comments at the July 5, 2006 Public Hearing a few assertions concerning variances were raised, none of which have any merit.

- One of the comments asserted that a variance wasn't available for a change in the rules. No development is the same in design, location or circumstances. The Regulations cannot cover every potential or possibility. That is why the Subdivision and Platting Act and the Regulations allow for variances. Specifically, Section 8-1-7 provides a variance may be granted from the regulations. There is no limitation on what part or parts of the Regulations may be subject of a variance.
- Another was that each of the variances required an environmental impact statement. State action is needed to trigger an environmental impact statement requirement under the Montana Environmental Policy Act. The Planning Board and Commissioners' decision on Aspen Springs is a local government action, not a state action. No environmental impact statement is required.
- Another comment was that all five of the elements set out in Section 8-1-7 must be met for a variance to be granted. The Planning Board, having been considering variances for some time, is certainly aware the Regulations only require an "overall positive finding".
- Yet another comment was that variances were only available for minor deviations. Nothing in the Regulations or Montana Law requires the Planning Board or Commissioners to find the variance is a "minor deviation". That is simply not a requirement, nor one of the criteria for granting a variance.
- Finally, it was asserted that a variance from 7,500 square foot lot size regulation, was not permitted due to Section 8-1-8. That Section provides, "The Board of County Commissioners may not grant a variance to modify lot size or other requirements to increase permitted density or intensity of use." Here the variance to reduce lot size does not result in any increase in permitted density or intensity of use. Aspen Springs is approximately 393 acres. Taking away 11% for park land, leaves 349 acres. At 7,500 square feet per lot, that would permit in excess of 2,000



Ravalli County Planning Board  
July 21, 2006  
Page 5

lots. The average lot size in Aspen Springs is in excess of 10,000 square feet, well below the maximum density.

In conclusion on behalf of Wesmont I would like to thank the Planning Board for its diligence and service to Ravalli County and for its time in considering Aspen Springs.

Sincerely,

~~SULLIVAN, TABARACCI, & RHOADES, P.C.~~

A handwritten signature in black ink, appearing to be "John K. Tabaracci", written over the crossed-out firm name.

John K. Tabaracci

JKT/acp

cc: Wesmont

[Jmccubbin@ravalliacounty.mt.gov](mailto:Jmccubbin@ravalliacounty.mt.gov)



## SULLIVAN TABARACCI & RHOADES

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June 21, 2006

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Ravalli County Planning Board  
Ravalli County Planning Department  
215 South 4th Street, Ste. F  
Hamilton, MT 59840

**RE: Aspen Springs**

Dear Planning Board:

I am writing concerning a legal issue that has arisen since the time of the Plat Evaluation Meeting. As with my earlier letter, I intend this letter to be part of the record and respectfully request you consider it in your evaluation of my client's Subdivision Application and variance requests. Further as this issue is a legal issue, Wesmont reserves its right to institute appropriate legal action, if the need arises.

This issue concerns Ravalli County Subdivision Regulation (RCSR) Section 5-4-4(d) Connection to Adjoining Parcels. Since the Plat Evaluation Meeting, the Planning Office has demanded that Wesmont submit a variance from this requirement, as the only connection proposed to the south, into Riverview Orchards, is the emergency access at Mountain View Drive. The Planning Office is apparently of the view that connections into Riverview Orchards should exist at Cottonwood Lane, Meadow View Drive and Mountain View Drive.

RSCR Section 5-4-4(d) provides, in pertinent part, "Roads in a new development shall be connected to a right-of-way or easement in adjacent platted areas to allow for proper inter-neighborhood traffic flow."

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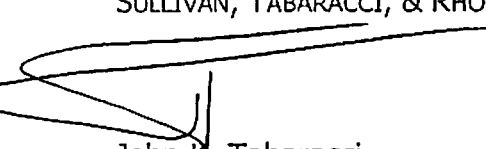
**COPY TO CLIENT**

All the section requires is a connection to "a right-of-way or easement" (emphasis added). In other words there must be a, meaning one, connection between Aspen Springs and adjacent platted areas. To the south the only platted area with a right-of-way or easement to connect with is Riverview Orchards. As mentioned there is a connection already proposed between Aspen Springs and Riverview Orchards, at the point of the emergency access (per RCSR Section 5-5-5). The Planning Office's desire to see connections at other than Mountain View Drive, exceeds the number of connections required. The single connection at Mountain View Drive meets the terms of "a right of way or easement."

This leaves the question of whether this connection allows for "proper inter-neighborhood traffic flow." This is not a matter for a variance, but a question to be answered initially by the Planning Board and ultimately by the Commissioners. I firmly believe that the Planning Board and the Commissioners will agree that, in this situation, this emergency access indeed allows a proper inter-neighborhood traffic flow, given the fact that at the neighborhood meeting, it was made clear by several owners of lots in Riverview Orchards that they didn't want Aspen Spring's traffic in their neighborhood. Based on this express desire of the neighbors in Riverview Orchards, the proper inter-neighborhood traffic flow, is emergency traffic flow only. Hence, in this instance, the connection as an emergency access, is a connection as required, which allows for proper inter-neighborhood traffic flow.

While Wesmont has filed a variance on this issue, it has done so only to protect its interests. This is not a matter for a variance. Rather, it is a decision to be made, initially by this Board, and in the end by the Commissioners.

Sincerely,  
SULLIVAN, TABARACCI, & RHOADES, P.C.



John K. Tabaracci

JKT/acp

cc: Wesmont  
[jmccubbin@ravallicounty.mt.gov](mailto:jmccubbin@ravallicounty.mt.gov)



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June 29, 2005

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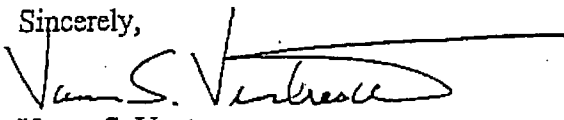
Re: Aspen Springs subdivision

Dear Ryan Salisbury:

Your letter to the Florence-Carlton School district dated June 15, 2005, requested comments about the Aspen Springs subdivision. In anticipation of this and other subdivisions, our district formed a Mitigation Fee Committee. This committee took an in depth look at the impact Aspen Springs would have on our district. They used information commonly requested by the county commissioners when reviewing subdivisions, and information which will be required by senate bill No. 185 recently enacted by the state legislature. The committee's report is attached. You will find that the district is requesting a fee of \$5,312.50 per lot, and will file this request with the Ravalli County Planning Board. We also wish to have it on record that the District will not provide transportation services for any students who do not live on county roads.

If you have any further questions please contact us.

Sincerely,

  
Vance S. Ventresca,  
Superintendent

VV/jl

### *Description of Existing School Facility*

The Florence Carlton School District incorporates grades K-12 on one campus. One building encompasses grades 3-12 along with the library, nurses' room, two gymnasiums, and administrative offices. There are 45 classrooms in this structure. Every classroom is being used every period of the day. The junior high/high school choir is currently being held in an old modular building that was originally purchased for storage. There are 2 teachers who teach pushing a cart with their books from classroom to classroom taking advantage of teachers' prep periods. Administrative offices have been replaced for space for our special education. Those offices were moved to an older building that was built in the 60's to house the superintendent. A mezzanine added in the 1991 remodel that was used for various activities has been remodeled to hold two more classrooms. Because much of the building is the older part of the original building, hallways and stairs are narrow. Wheelchair ramps for our handicapped students are not wide enough for wheelchairs and students. Our present high school parking lot is overcrowded making maintenance and control difficult at best. Old Highway 93 runs parallel with the high school building and because of parking and constant travel across the highway to the school we constantly run the risk of interference with oncoming traffic. We have extreme elementary building congestion at school drop off and pick up times. The school buses continually jockey for space at these times also. Our current resource officer is very concerned with the problems surrounding the student body increase in proportion with our school structure. Incidents of bullying and related problems occur when lack of space warrants short fuses in the students. Our current buildings encompass 105,000 square footage for the 930 students who attend. This breaks out to 113 square feet per student. In comparison to 16 other schools in western Montana Florence ranks the lowest in square footage per student. In a letter from the Northwest Association of Accredited Schools to the chairman of the board, dated December 16, 2004 the following is noted as deviations.

### STANDARD III: SCHOOL PLANT AND EQUIPMENT

1. Facilities are not designed, equipped and monitored to provide instructional spaces that are adequate for programs.
2. Space does not promote staff communication.
3. Noise is an issue in the instructional space.

This District has always been very resourceful in using the resources available to educate its students. Five years ago because of the overcrowding and growth in the community the school board made a decision to build an additional building. This was to be a K-5 building to be built across the street from the current campus. The original

building was to be updated and used for middle school and high school. This bond was presented to the community 3 times and has failed overwhelmingly each time.

The school board sanctioned an independent survey the summer of 2004 to poll the community as to the reasons for the failure of the bonds and the reasoning of the community in supporting the school growth.

The school board also after 12 years of not asking for additional money for maintenance and operation of the school found themselves in a position to do so. In May 2004 a M&O levy was run and failed. This forced the school board to cut \$150,000 from their budget.

### *Description of School Service*

Despite the community's failure to support the bonds presented to them the Florence School District still has an excellent reputation. Florence has the highest graduation standards in the Bitterroot Valley and the highest percentage of our graduating seniors go on to college or university educations. Our federal and state testing of our 4<sup>th</sup>, 8<sup>th</sup>, and 11<sup>th</sup> graders, under the No Child Left Behind, are found proficient and advanced in reading and mathematics. On the state level we have consistently tested at or above state levels.

### *Florence Carlton School Board Concerns:*

1. The school structure has not one inch of space to enlarge.
2. At present the community has not supported building of any structure.
3. Many of our classes exceed current state standards.
4. Every classroom is being used to capacity.
5. Continual growth taxes the use of current resources. (Teachers, supplies, maintenance of current facility.)
6. We want to continue our excellent academic history but can for see a downslide of services because of overpopulation.

### *Florence Carlton School Board Recommendations for future subdivisions:*

1. Additional space for students.
2. Taking into consideration the recommended per capita per household of .4 students, and your proposal of 640 homes we have come to the figure, using above stated square footage per student times what we will need to build an additional structure. That structure would need to be 34000 square feet. In conferring with our architect, their estimate for construction of such facility would be approximately \$100 per square foot. Therefore the per lot fee for such facility would be \$5312.50.



RECEIVED

JUL 28 2006

Ravalli County Planning Dept.

IC-06-07-1216

## RAVALLI COUNTY ATTORNEY

George H. Corn, County Attorney  
T. Geoffrey Mahar, Chief Deputy  
John Bell, Deputy  
Karen Mahar, Deputy  
D. James McCubbin, Deputy  
William E. Fulbright, Deputy

205 Bedford Street  
Suite C  
Hamilton, MT 59840  
Phone (406) 375-6750  
Fax (406) 375-6731

July 27, 2006

Via Facsimile/U.S. Mail & E-Mail

John McGee, Superintendent  
Florence-Carlton School  
5602 Old Hwy 93  
Florence, MT 59833

Re: Subdivision exactions for schools

Dear John:

I am writing in follow up to the conversation of last Wednesday between yourself and my deputy James McCubbin, regarding arguments made by Missoula Attorney Cal Christian on legal limitations for requiring subdividers to provide funding for schools. As James had noted, Cal Christian had called James Wednesday morning to let him know Mr. Christian would be making various arguments in front of the Planning Board Wednesday evening. The most significant of these arguments, which he did present to the Planning Board, was that Section 76-3-510, MCA, prohibits a county from requiring a subdivider to make payments that would contribute to, or be based upon the expense of, expanding a school's capital facilities. The full text of that statute is as follows:

76-3-510. Payment for extension of capital facilities. A local government may require a subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. A local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.

It appears from the comment letters from the Florence-Carlton School District on subdivisions, that the sums which you have requested are calculated, at least in part, based upon the anticipated expense of extending the school's capital facilities. I note this because the

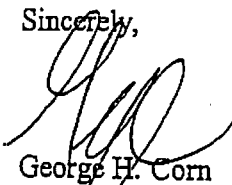
school district's comment letters have referenced calculation of your requested figure based, at least in part, upon the type of information which would support imposition of impact fees. As impact fees can only be used to cover the expense of expanding capital facilities, it appears that the subdivision figures which you are requesting have been based on capital expenses. As such, under the language of the statute cited by Mr. Christian and included above, it appears that the County is prohibited from requiring subdividers to make the financial contribution requested by the school district.

I anticipate that the legal arguments raised by Cal Christian will be quickly seized upon by others in the development community. I anticipate that these arguments and the statutes cited above will most likely be raised as issues with respect to other subdivisions in the Florence-Carlton School District. If you, or the School Boards Association attorneys, have an alternate analysis of the foregoing statute, it would be most helpful if we could receive that analysis as soon as possible, and preferably prior to the Planning Board's deliberations on the Aspen Springs subdivision next Wednesday, August 2, 2006.

It would also be very useful to receive an explanation from the school district regarding the calculation of the figures you previously requested, so that we may break out which portion of the figure was for anticipated capital expansion, versus non-capital expenses such as operations, maintenance, books, etc. We are able to negotiate payments to schools for non-capital expenses through the subdivision review process.

As I had noted to you over the telephone, the limitation in the statute cited above does not make sense to me from my public policy perspective. Nonetheless, the legislature's enactment of the statute, however misguided, does appear to limit the county's ability to mitigate impact from subdivisions with respect to schools. I am hopeful that the School Boards Association attorneys might perceive this differently and provide us with an alternate analysis. Please also share this information with your School Board members. I will look forward to hearing back from you at your earliest convenience.

Sincerely,



George H. Corn  
Ravalli County Attorney

DJM/jw

cc: Montana School Boards Association: Lance Melton and Debra Silk  
Ravalli County School District Superintendents





## Montana Fish, Wildlife & Parks

RECEIVED  
JUL 21 2006  
IC-06-07-1178  
Ravalli County Planning Dept.

3201 Spurgin Road  
Missoula, MT 59804  
July 21, 2006

Ravalli County Planning Department  
215 South 4<sup>th</sup> St., Suite F  
Hamilton, MT 59840

Dear Persons:

Reference: Aspen Springs – Proposed major subdivision for Eightmile area, northeast of Florence.

We offered previous comments (March 9 2005, July 19, 2005 and June 20, 2006 letters, attached, hereafter "earlier letters") on this subdivision. The purpose of this letter is to share the observations made by FWP biologist John Vore on July 18, 2006, when he inspected the property with the permission of the landowner.

John hiked a 4-mile route traversing the project area in parallel lines and documented locations of deer pellet groups and beds with a GPS unit. He did not find any elk sign, although the area is certainly suitable for elk and connected by native vegetation and favorable landforms to occupied elk winter range nearby. Most deer sign was found on the upper parts of the ridges in native sagebrush/bitterbrush/grassland habitat types (see accompanying map). On these favored ridges there were 108 pellet groups per acre, while on the adjacent flats that have been converted to crested wheatgrass there were 8 pellet groups per acre. This underscores the importance of the native vegetation ridges as mentioned in our earlier letters.

John also found pellets and a burrow complex that may be those of pygmy rabbit, a small species of rabbit that lives only in sagebrush habitat. The pygmy rabbit is a Species of Concern in Montana, and it has not been confirmed in Ravalli County before, but is known to be in the Big Hole Valley just to the south. (Montana Species of Concern are native animals breeding in the state that are considered to be "at risk" due to declining population trends, threats to their habitats, and/or restricted distribution.). John shared these latest findings and photo-documentation with Nick Kaufman and Joe Elliott on July 20. This does not verify the species' presence on Aspen Springs, only the possibility. Additional fieldwork would be necessary for verification.

These observations support our previous comments and Ravalli County staff recommendations regarding Aspen Springs subdivision. The upper elevations of the property are the most beneficial for perpetuating communities of native wildlife species.

FWP is concerned about the cumulative effects of continued subdivision in the Eightmile area. John Vore and Mike Thompson (FWP Region 2 Wildlife Manager) recently met with WGM Group and the neighboring landowner at the FWP office in Missoula. At that meeting, concerns

were raised that concessions made for wildlife by one landowner could be compromised or negated by the actions of a neighbor. We agreed that a cooperative approach among adjoining landowners in the Eightmile drainage would be of benefit in striking the most workable balance between the desires of private landowners and the needs of the public's wildlife. Ideally, this would be landowners, the state, the county, and groups such as the Bitterroot Land Trust and the Rocky Mountain Elk Foundation coming together as a group to plan at the landscape scale, rather than piecemeal.

Please feel free to contact John Vore at 375-2273 with any questions or comments.

Sincerely,

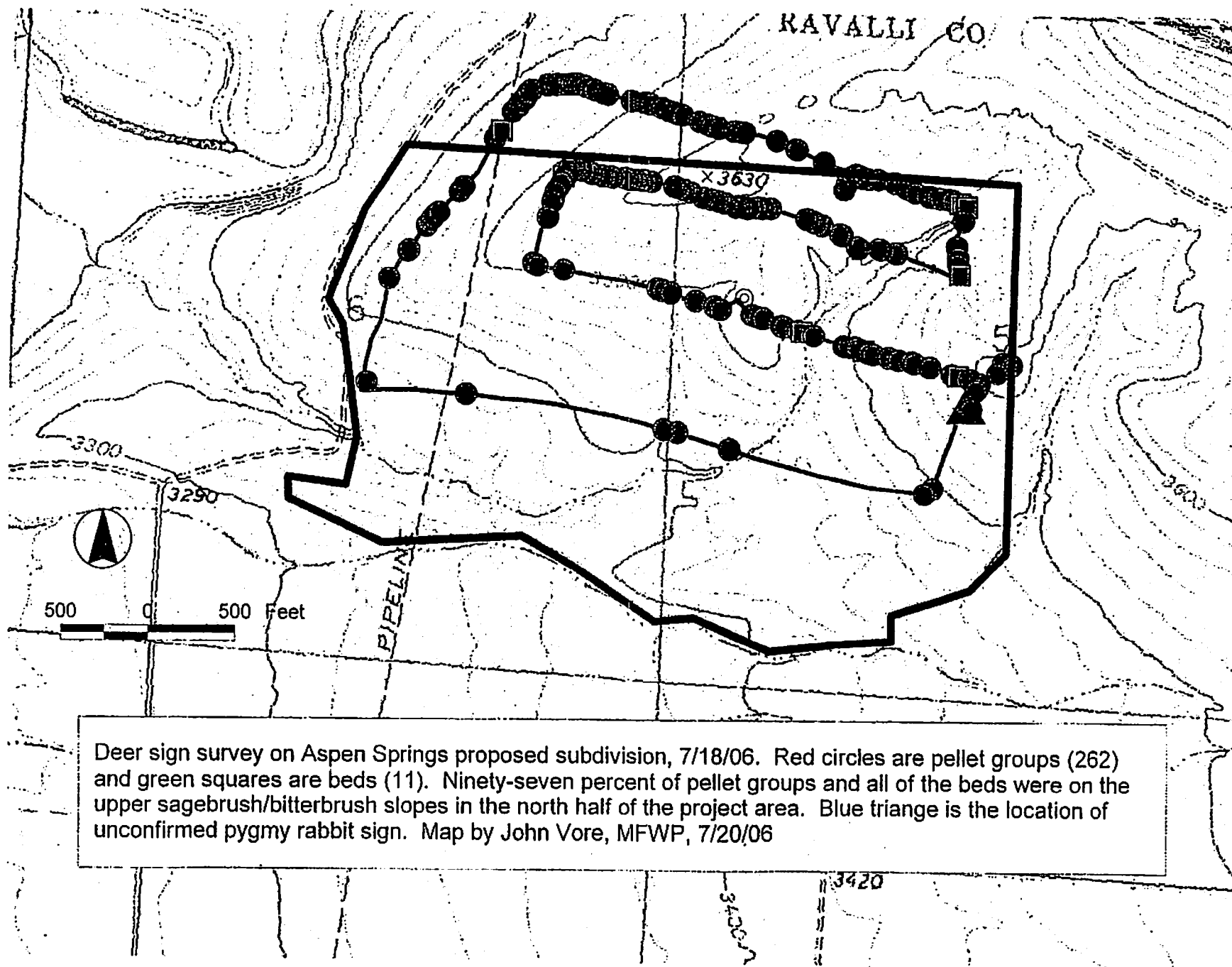
A handwritten signature in black ink, appearing to read "Mack Long", with a stylized flourish at the end.

Mack Long  
Regional Supervisor

Attachment: Map

Enc: Letters to WGM dated March 9, 2005, July 19, 2005 and June 20, 2005

C: WGM Group, Inc. 3021 Palmer, P.O. Box 16027, Missoula, MT 59808-6027



Ravalli County Sheriff's Office  
205 Bedford Street, Suite G  
Hamilton, MT 59840-2853



Chris Hoffman, Sheriff  
Kevin McConnell, Undersheriff

July 24, 2006

Nicholas P. Kaufman  
WGM Group  
3021 Palmer  
PO Box 16027  
Missoula, MT 59808-6027

RECEIVED

JUL 24 2006

Ravalli County Planning Dept.  
Public Hearing

rec'd at  
PB meeting

RE: Proposal for Voluntary Mitigation, Public Services Fund, Aspen Springs

Dear Nick,

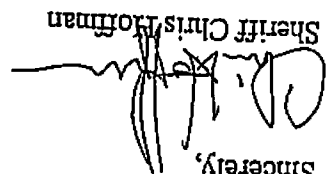
Thank you for your letter of July 11, 2006, discussing your Proposal for Voluntary Mitigation. It has been my pleasure to meet with you and other members of your group through this process, and I appreciate your efforts toward lessening the impacts of growth on my office. As far as I know, yours is the first group ever to approach us and even offer to mitigate.

As you requested, I have reviewed and considered your proposal as well as had the opportunity to hear you explain it to the Ravalli County Planning Board. I am certainly aware that if the citizens of this county were to pass a public safety levy, residents of Aspen Springs would be paying for it as well. Unfortunately, as we have discussed, currently I am only in a position to deal with the demand we face right now. I will not belabor the issues we have discussed in the past except to say again that I am not in need of a satellite station at this time, and even if one were provided turnkey, I would not have the staff to man it. Further, I am not opposed to growth in the Bitterroot Valley. In fact, I believe that "cluster development" is the most sensible way to protect the character of our valley in the face of this explosive growth. In the end, though, my first responsibility is to the citizens of Ravalli County. I feel a strong obligation to advise anyone moving into the area, especially the outlying areas of the county, that we are stretched to our elastic limits and that our ability to provide services has not kept pace with the growth we have seen.

Finally, I do not suggest that it is the sole responsibility of a developer working on a current project to pay for the impact of all the projects that have come before. However, as sheriff I must look at the cumulative effects of growth in terms of the service we provide. While I will never turn down help offered to this office, I'm sure you realize that the Voluntary Mitigation you propose will not make a substantive difference in our ability to provide law enforcement services in Aspen Springs or anywhere else in Ravalli County.

Thank you again for your continued interest in providing assistance to the Sheriff's Office. If you have any questions or concerns, please feel free to contact me at any time.

Sincerely,



Sheriff Chris Hoffman

cc: Ravalli County Planning Board

**Ilene Hilbert**

**From:** John Tabaracci  
**Sent:** Monday, August 21, 2006 2:35 PM  
**To:** Ilene Hilbert  
**Subject:** FW: Aspen Springs Emergency Access

**From:** David Ohnstad [mailto:dohnstad@ravallicounty.mt.gov]  
**Sent:** Thursday, August 17, 2006 3:17 PM  
**To:** Ryan Salisbury  
**Subject:** RE: Aspen Springs Emergency Access

✱ Ryan - my comments follow - ✱

**From:** Ryan Salisbury [mailto:RSalisbury@wgmgroup.com]  
**Sent:** Thursday, August 10, 2006 9:28 AM  
**To:** David Ohnstad  
**Cc:** perry ashby  
**Subject:** Aspen Springs Emergency Access

David,

In regards to a secondary connection for the Aspen Springs subdivision (connection to Mountain View Dr.), I am trying to clarify the Road Department's opinion of how this access would need to be improved. From your emails dated June 26th and 27th with the planning office, it is my understanding that the Road Department would like to see a secondary access that would function only as an emergency access and is not requiring a fully developed secondary access. From your email dated June 26th it is important to the Road Department that this access allow ingress and egress traffic movements in the case of an emergency. ✱ The Road & Bridge Department recommends the construction of a secondary, or "emergency", access to the Aspen Springs subdivision project. We believe that regular traffic from the subdivision should access from the primary route, in this case Lower Woodchuck Road, that has been designed to accommodate this traffic and which directs the traffic to a designed and controlled intersection with Eight Mile Creek Road. Aside from use as an emergency route, there would not appear to be a considerable benefit to having another access to Aspen Springs, given that all of the traffic in the Eight Mile Creek corridor ends up at the same intersection (Eight Mile Creek Road & Lower Woodchuck Road). ✱

"I believe it is important to have a "secondary" access, at least for emergency situations, that has been designed, would function, and could fully accommodate emergency response vehicles and/or provide for evacuation - full design width and structure, clear zones and no (locked) gates or other fixed obstacles - even if it's regular, routine use is limited."

In order to provide adequate emergency access to and from the development, we have proposed a barricade that would alert drivers that the access is for emergency use only, but that the barricade could be driven around to enter or exit the subdivision in the case of an emergency. In addition, the horizontal barricade boards could be knocked off if necessary. A locked gate is not a part of the proposal as submitted to the Planning Office and would allow access in all emergency cases. I have included a copy of this barricade detail with this email. If this

8/21/2006

is not acceptable, could you please comment on any revisions you would like to see? One of the revisions we feel we need to make to the barricade detail is 1"x6" boards rather than 2"x8" boards. Any barricade would need to be consistent with the design standards for a Type III Barricade found in the MUTCD. We would suggest considering the use of break-away posts to mount the barricade on.

Also part of our proposal is to leave Mountain View and the east/west portion of Eight Mile Creek as they are with no improvements because this will only be an emergency access. However, we do intend to improve the cul-de-sac at the north end of Mountain View, in the Riverview Orchards development, with an 18 foot wide gravel road with 2 foot shoulders where necessary. This improvement will create an acceptable, all weather, emergency access. It is my understanding from our phone conversation yesterday that leaving Mountain View and Eight Mile Creek Road as they are is acceptable for an emergency access. Our recommendation is to construct improvements to Mountain View Lane, bringing that roadway up to current AASHTO design standards, reflective of the functional classification assigned to such a roadway. There would appear to be precedent in not requiring the construction of improvements to Eight Mile Creek Road from the "emergency" access (Mountain View Lane) to its intersection with Lower Woodchuck Road, provided that improvements are constructed the entire length of the primary access (Lower Woodchuck Road and lower Eight Mile Creek Road) to the subdivision.

Internal to Aspen Springs, we will pave a road (Madison Drive) during phase 21 that connects to Mountain View. If this phase is not appropriate, what phase would the Road Department require? In my opinion there are gated communities and many subdivisions in Ravalli County that have one ingress/egress location and in most cases an emergency access is simply not provided, so our proposal for an emergency access in phase 21 is adequate. We strongly disagree with the planning office opinion that a paved roadway be provided (4,700 feet of roadway) from phase 1 of the project to Mountain View. There is no engineering basis for a 4,700 foot paved, emergency access during phase 1 of this development. We suggest that at the time (phase of the project) the primary access route (Lower Woodchuck Road) is projected to fall below a Level of Service "A" would be a more appropriate time to provide for the construction of the "emergency" access route, with the assumption that, even in an emergency event, traffic from the developed portion of the project could evacuate effectively and emergency response vehicles could effectively access the subdivision, through the primary route up to that time.

The Road Department's contract review engineer has reviewed the street plans for Aspen Springs and has approved these plans. Because Lower Woodchuck and Eight Mile Creek Road (north/south portion) were designed to handle all vehicle trips to and from Aspen Springs and because these road plans have been approved by the Road Department, it is my opinion as the road designer that traffic will flow better along the proposed route and further supports that Mountain View should only be an emergency access. Could you please let me know your thoughts on this issue? We would agree with that opinion.

I would like to thank you for your comments on the Aspen Springs proposal. As indicated in your review of our variance requests for Aspen Springs, you recommended that the developer re-construct Lower Woodchuck and Eight Mile Creek Road. We appreciate your comments and have revised our proposal so that we will improve Eight Mile Creek Road and Lower Woodchuck Road as requested. The Planning Board members were supportive of our proposal and have recommended to the County Commissioner's that a Late Comers Agreement be incorporated on these roads to allow the developer an opportunity to recuperate some of the infrastructure costs. The Road & Bridge proposed, and strongly supports, the development of a policy that would provide for Recovery Contracts, or Latecomers Agreements, for infrastructure improvements constructed by one project owner that would ultimately benefit future project owners. We believe that it is inherently unfair for subsequent developments to benefit from such improvement without compensating or reimbursing the original project for a pro-rated portion of the value of those improvements. We also believe, however, that the improvements to the entire length of Lower Woodchuck Road and lower Eight Mile Creek Road should be constructed as part of the first phase of the Aspen Springs project, with the adoption of a Recovery Contract policy expedited by Ravalli County to protect the project owner's investment and to provide for equitable recovery of costs upon further development.

Any clarification as to your position of the above mentioned improvements would be greatly appreciated and we appreciate working with you and your department. Thank you for your time.

**Ryan Salisbury, P.E.**

**WGM Group, Inc.**

8/21/2006

3021 Palmer  
P.O. Box 16027  
Missoula, MT 59808-6027  
Tele: (406) 728-4611  
Fax: (406) 728-2476  
Email: [Rsallisbury@WGMGroup.com](mailto:Rsallisbury@WGMGroup.com)  
<<BarricadeDetail.pdf>>



★ NEW REQUEST REC'D 7:10 p.m.

## ATTACHMENT J

**Ravalli County Planning Board**  
Expert Witness Request (Three-Minute Waiver)

Transfer of Three-Minute Speaking Time (to another Speaker)

☒ Expert Witness Request (three-minute waiver)

☐ Transfer of Three-Minute Speaking Time

Date: 8/22/06

Name of Proposal (subdivision name, variance name, etc.):

Aspen Springs

Your name: Chris Linkenhoker

Your residence: 63 Sugar Mountain Rd. Hamilton

State your qualifications to testify as an expert: 20 yr. career employee  
of U.S. Forest Service - Forester, Silviculturist, Forest Planner  
N.E.P.A. Coordinator

Length of time requested: 6 minutes or

Individual to whom you wish to transfer your three-minute speaking allotment:

Special presentation materials (slide show, maps, documents, etc.):

For those requesting additional time as an expert witness, please state the reason why your presentation cannot be made within three minutes or be submitted in writing:

Reference National Environmental  
Policy Act & Legal Ramifications

Submitted to \_\_\_\_\_ (staff) at 7:10 on this 22 day of Aug., 2006

Board Action on Waiver: ☐ Approved or ☐ Disapproved

# ATTACHMENT K

Date: August 22, 2006  
To: Ravalli County Commissioners  
From: Shaen McElravy M.S.W.  
4721 Teddy Bear Ln  
Stevensville, MT 59870

*mtg. 8/22/06  
read @ mtg.*

Commissioners.

We need to ask, how many people here tonight want to preserve our culture, privacy, safety, tax dollars and way of life by limiting subdivisions to one house on 2-10 acres?? Please stand up if you want to protect these values---Please stand up if you want the Commissioners to say no to Aspen Springs!

At the end of this evening you should come up with a unanimous vote of "NO" regarding the planned Aspen Springs subdivision. I am sure that you are aware of the sheer numbers of people that have attended the planning meetings regarding this proposal. I am sure that you are aware that the people of this county have collected over 5,300 signatures saying we need emergency zoning restrictions limiting subdivisions to one house on 2 acres until we can have some real zoning and planning in place. Even our county attorney George Corn has written you stating that we need emergency interim zoning.

This is a time for you to act as if you have been listening to the citizens and vote No for the Aspen Springs project.

I am going to refer to the Ravalli County Citizens Guide to Subdivisions. The review criteria is listed and asks, "is the proposed subdivision in the public interest? You have had thousands of people telling you no, it is not! The public has been repeatedly telling you that they want to protect their rural lifestyle of living on 2-10 acre lots.

Another question it asks, does the proposed subdivision meets the standard of the Ravalli County Subdivisions Regulations and the Montana Subdivision and Platting ACT? Once again, it does not meet the criteria. The developer has been refused permits for sewage 2 times. The developer has also failed to stake all proposed drain fields as required by DEQ. The developer has failed to obtain the water permits required by DNRC.

"Effects on Local Services" has been a hotbed for the residents of the county because the costs for police, schools and roads will be passed on to the taxpayer. By allowing this subdivision to be granted, even conditionally, you will be going against the Designs and Development Standards of Ravalli County. In those standards they illustrate that the developer should have to pay for the roads and the developer has refused to do so.

"Effects on the Natural Environment" You have heard the repeated concerns of this development affecting winter elk range.

"Effects on Public Health and Safety" Those affects are numerous. DEQ lists 300 septic in a square mile as hazardous and the developer wants to double that number???

You also have the letter from our Sheriff stating that his office is overburdened, short staffed and short on funding. There will not be adequate police protecting in the north end of Ravalli County.

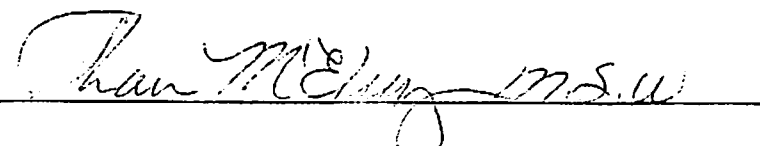
The Eastside Hwy cannot adequately handle an additional 5000 cars a day. There are already 5000 cars a day traveling between Stevensville and Florence on the Eastside Hwy.

"Variances" 8-1-11 Ravalli County Subdivisions state that you can only grant a permit for the variance that expire 30 months after the date of approval or earlier by Board Action, unless the final plat is filed. Thus, you should not grant a variance to allow this development to be phased in for the next 10-20 years. Doing so would put the county in violation of its own standards for variance timelines. Also, in the revised subdivision regulations 8-1-7 Basis of Decision is quite clear. It states, "The Board of County Commissioners shall not approve the variance application unless **"it makes an overall positive finding, based on substantial competent evidence, on the following areas."** There are five areas that are listed. Area 1---granting the variance will be detrimental to the public health safety and welfare by allowing 600 septic systems to be built within a square mile when DEQ lists 300 septic as hazardous. And most importantly number 5 says that the variance will not cause a substantial increase in public costs. The reasons here have already been listed above. The developer calls his plan "Smart Growth" while it is not. Smart growth, is building where there is infrastructure and adequate sewage, water and police. The developer's plan goes against the Smart Growth Policy of Ravalli County. The taxpayers of Ravalli County should not be required to subsidize this mega development.

In closing "the review criteria also lists conditions will be imposed on a subdivision to mitigate its negative effects on the taxpayers and the community as a whole. Mitigation conditions may include changing the number or configuration of lots, realigning roads, or easements, installing appropriate infrastructure and other actions that are appropriate." It is quite clear the Mr. Ashberry does not want to mitigate as he does not want to build the roads as asked and that he does not want to give up any land for elk unless he is reimbursed at the profit value of the land. You have to say no to this project at this time. If this project is given any consideration for the future an offer of mitigation should be to have the developer complete a full environmental impact statement applicable to the standards of DEQ before any further meeting or review.

Aspen Springs----not even once.

Shaen McElravy



TO: Ravalli County Commissioners:  
Greg Chilcott  
Alan Thompson  
Betty Lund

rec'd @ BCC  
mtg. 8/22/06

## ATTACHMENT L

RE: Proposed Aspen Springs Development

DATE: August 22, 2006

FROM: Cheryl Harkin  
5952 Brittany Lane  
Florence, MT 59833

Growth is inevitable. Increased traffic as a result of growth is inevitable. What cannot change without appropriation of significant funding, is the existing highway system and the systems that support these roads as population and density increase. To the north of Florence, subdivisions are stacking up in Lolo with the net result of 1000's of new vehicle trips on Highway 93. To the south of Florence, several new subdivisions are on the drawing board and if approved will result in 1000's more vehicle trips on Highway 93.

Westmont has offered \$2,000 toward a traffic study for the intersection of Eastside Highway and Highway 93 after it receives approval for Aspen Springs. We, the people of Florence, are being asked to take the word of people that stand to benefit financially, probably do not live off Eastside Highway or have to deal with the intersection at 93, that our quality of life, albeit safety, will be looked at after they get their way.

Here are some quick facts:

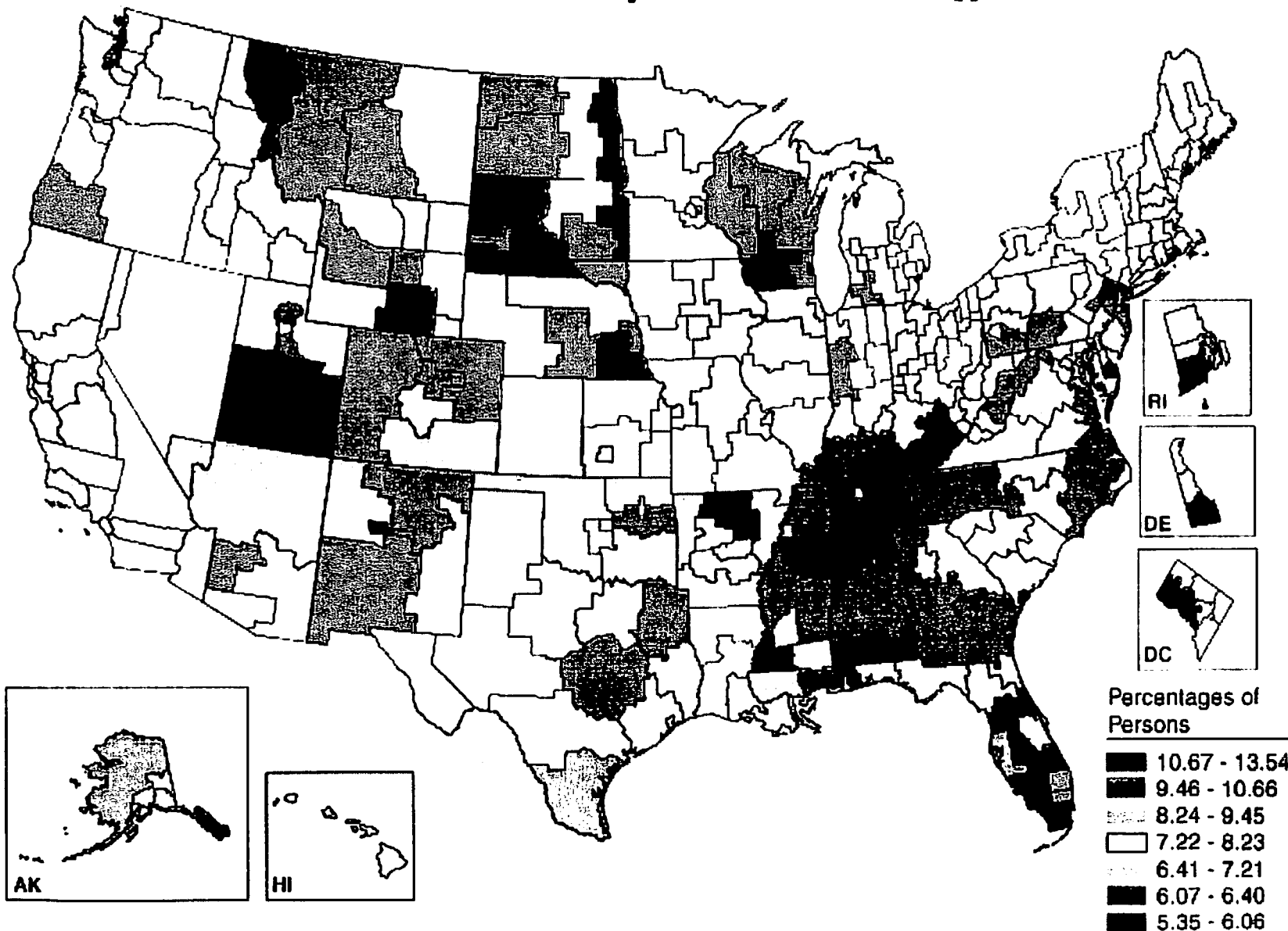
- Population in Ravalli County has increased 59% in the last 15 years;
  - Traffic accidents on 93 have increased 61% in the last 15 years;
  - Traffic accidents on Eastside Highway have increased 171% in the last 15 years.
- (Source MDT 8-22-06)

So we know, based on MDT statistics, that traffic accidents on 93 have been proportionate to growth. However, traffic accidents on Eastside Highway are highly disproportionate. Studying the intersection of Eastside Highway and 93 is a nice thing to do...how far \$2,000 will take us remains to be seen, and studies do not solve problems, but merely confirm their presence.

If Aspen Springs becomes a reality, the traffic study is a moot point...we can't go back. We won't be able to rewind the clock and take away the accidents that historical trending already shows. We won't be able to create a realistic infrastructure without dipping into the pockets of all Montanan's, after-the-fact.

Now is the time to require studies and objective planning and solutions for the thousands of Ravalli County citizens that currently reside here. If you do not, it will be a huge disservice to all of us that have invested our hard-earned money into the expectation of a rural, safe community. Westmont is asking you to care more about their personal financial well being than the future of Ravalli County residents. I'm asking you to plan for the future and not make irreversible mistakes today.

# Alcohol Dependence among Persons Aged 12 or Older United States by Substate Region



Source: 2002, 2003, 2004 NSDUHs

NIDA National Institute Drug Abuse: based on OPI Youth Survey

ATTACHMENT M

rec'd @ BCC mty.  
8/22/04

SHH to loc. 44-18. m r

rec'd @ BCC  
mtg. 8/22/06

**NEEDS ASSESSMENT DRUG FREE COMMUNITIES  
2005 KIDS FIRST OF RAVALLI COUNTY**

**YOUTH RISK BEHAVIOR SURVEY  
AGE OF INITIATION**

	TOBACCO		ALCOHOL		MARIJUANA	
	2003	2001	2003	2001	2003	2001
< 9 YEARS	7.1%		15%		4%	
9 or 10	6.5%		11.1%		3.4%	
11 or 12	8.6%		16.7%		7.6%	
13 or 14	4.1%		10.1%		6.1%	

Alcohol- First Drink other than a few sips

**PREVENTION NEEDS ASSESSMENT (PNA) 2002- 04  
30 DAY USE- Ravalli County (Rav) and Montana (MT)**

	TOBACCO			ALCOHOL			MARIJUANA		
	Rav-2002	Rav-2004	MT-2004	Rav-2002	Rav-2004	MT-2004	Rav-2002	Rav-2004	MT-2004
Gr. 8	10.3%	12.6%	14.7%	25%	18.2%	24.2%	6.4%	4.8%	8.0%
Gr. 10	24.3%	25.5%	26.5%	43.9%	41.4%	46.2%	20.8%	22.9%	20.5%
Gr. 12	29.3%	41.3%	42.3%	55%	62.9%	60.5%	26.5%	30.5%	26.2%

**Heavy Use**

Gr. 8	1%	0%	.4%	15.6%	13.2%	16.2%	6.4%	4.8%	8%
Gr. 10	1.5%	1.8%	1.2%	28.7%	29.1%	32.3%	20.8%	22.9%	20.5%
Gr. 12	1.6%	3.5%	3.5%	38.1%	45.3%	44.4%	26.5%	30.5%	26.2%

½ Pack Cigarettes/day

Binge Drinking

30 Day Use

**INHALANT USE (PNA)**

	8 <sup>th</sup> Grade		10 <sup>th</sup> Grade		12 <sup>th</sup> Grade	
	Rav 2002-	2004	Rav 2002-	2004	Rav 2002-	2004
Life Time Use	10.7%	14.3%	14.5%	16.7%	13.1%	9.4%
30 day Use	4.4%	1.4%	3.6%	6%	2%	3.5%

**BEHAVIOR (PNA)**

	10 <sup>th</sup> Grade			12 <sup>th</sup> Grade		
	2002	2004	MT 2004	2002	2004	MT 2004
Drunk/ High At School	18.9%	23.9%	25%	22.7%	26.6%	7.9%
Attack to do Harm	11.1%	12.6%	14.4%	8.3%	16.7%	11.2%

# RISK FACTORS (PNA)

8 <sup>TH</sup> GRADE	2002	2004	MONTANA 2004
Perceived Risk of Drug Use	31.9%	28.6%	38.8%
Laws & Norms Favor Drug Use	37%	39%	36%
Family Conflict	46.3%	51.4%	50.6%
Parent Attitudes Favor Drug Use	23%	24.5%	30%
Peer Attitudes Favor Drug Use	23%	24.5%	30.5%
Depression	46.5%	39.3%	46.9%
Sensation Seeking	52.4%	57.6%	66.9%
Transitions and Mobility	41%	49.2%	44.5%

10 <sup>TH</sup> GRADE	2002	2004	MONTANA 2004
Perceived Risk of Drug Use	38.3%	37.1%	39.2%
Laws & Norms Favor Drug Use	48.9%	49.5%	44.8%
Family Conflict	33.4%	35.1%	38.8%
Parent Attitudes Favor Drug Use	45.3%	46.6%	52%
Peer Attitudes Favor Drug Use	43%	45.9%	42.2%
Depression	32.5%	44.5%	47%
Sensation Seeking	54.8%	65%	65.1%
Transitions and Mobility	46.9%	56.5%	49.1%

12 <sup>TH</sup> GRADE	2002	2004	MONTANA 2004
Perceived Risk of Drug Use	48.2%	56.7%	46.6%
Laws & Norms Favor Drug Use	44.9%	50%	41.8%
Family Conflict	28.9%	39.7%	33.2%
Parent Attitudes Favor Drug Use	47.6%	53.3%	54.6%
Peer Attitudes Favor Drug Use	39%	50.2%	43.3%
Depression	29.9%	42.9%	37.9%
Sensation Seeking	60.1%	68.1%	63.6%
Transitions and Mobility	49.6%	53%	45.5%

1  
RISK  
FACTOR

## ATTACHMENT N

rec'd @ BCC  
mtg. 8/22/06

↓ lead or  
mtg.

My name is Marcia Bloom and I live in the Lone Rock area south of Florence. [I have lived in the Bitterroot Valley for 25 years.] I am against the Aspen Springs development as proposed because the location is absolutely inappropriate for a project of this density. Police protection should be a crucial factor in your decision and our sheriff says his staff/budget is not sufficient to provide adequate protection for this development - that is a no vote. Traffic safety should be a crucial factor in your decision and the added flow from Eight Mile onto the Eastside highway is not just an inconvenience - it will be a danger to the public - that is a no vote. School overcrowding should be a crucial factor in your decision and the Florence superintendent says the influx of new students generated by Aspen Springs will be a problem for the current facility. Overcrowding diminishes the quality of education for our students - that is a no vote. Winter range habitat for elk will be impacted. Your very own website posts a map of the Bitterroot Valley showing important winter range which is located in the midst of the proposed development. Reduction in prime wildlife habitat should be a crucial factor in your decision - the density of housing will affect the elk - that is a no vote. The infrastructure to support a development of this size is nonexistent and should be a crucial factor in your decision - smart growth development should be adjacent to an existing town, not dropped into the middle of nowhere - that is a no vote. The argument about the dire need of low income housing in the Bitterroot Valley is debatable but the location of low income dense housing is not debatable. The needs of those living in low income housing revolve around tight budgets. High gas prices are a problem on a tight budget and the location of this project requires a commute to Missoula. Low income areas need to have access to public transportation, services, and jobs. These are nonexistent in the proposed location. This should be a crucial factor in your decision - that is a no vote. The bottom line here is that the residents of the Bitterroot Valley will have to suffer the consequences of your mistakes if this development is approved



as presented. It is your job to plan for our future, the residents of Ravalli County - not the developer's future. You have to weigh all the crucial factors and right now they all point to non-approval of Aspen Springs. [You must acknowledge the need for interim zoning and act on it immediately. Your decisions regarding our future depend on a sound plan for development in our valley. Do not recommend approval of this mega subdivision as proposed. Let's make an educated assessment of our valley and use interim zoning as a tool to prepare a plan for where the growth should occur.] Thank you.

Manuela Bloom

8-22-06

134 Dry Gulch Rd.  
Stevensville, MT 59870  
777-3194

Linda read  
from this  
letter

(4) The Developer is asking the people of Rawl's City for a blanket approval for a 20-30 yr. build out. In light of the rapid changes were ~~to allow the project to drag out over~~ experiencing, there simply is too much uncertainty to warrant gambling with the public interest that far into the future. Let the developer come back to the approval process ~~with~~ <sup>with</sup> 4 yrs. with real funds.

Finally, as mentioned earlier,  
Findings in Fact #5

You have a legal obligation to comply w/ the subdivision  
regulations of this County and not circumvent or  
undermine them to benefit private interests.

The developer has not provided the necessary facts  
to support legally granting any of the 8 Variances

Based on the findings of facts, ~~and perhaps more importantly~~  
~~and perhaps more importantly~~ ~~and perhaps more importantly~~

I urge you ~~our elected officials~~, to do the  
right thing and take the precautionary approach  
to public health & safety and act ~~to~~

to benefit of the public interest by denying  
the Aspin Spring Subdivision.

Thank you for your consideration.

# ATTACHMENT P

Nadine M. Wisniewski  
page 1

August 22 2006

RE: Aspen Springs Subdivision

rec'd at BCC

Mtg. 8/22/06

read @ mtg.

I am a licensed clinical psychologist specializing in children. I have practiced in Montana for 14 years and my children attended the Florence-Carlton Schools for 7 years.

I am very concerned about the impact of the subdivision on the Florence-Carlton School System. The proposed financial mitigation of \$300 per lot is highly inadequate, especially over a 20 year period.

Unfortunately the school system is currently severely overcrowded in all areas. The halls are impassable. The cafeteria services are inadequate. Teacher preparation areas are scarce to nonexistent. Classrooms are crowded with poor ventilation and temperature control. Enthusiastic, well-trained teachers and motivated students have difficulty overcoming these obstacles to a quality education. It has become very difficult to retain our best teachers and our best students in this environment. Average students and those with special needs suffer as well. Every new student that enters this system adds to the precariousness of the situation.

Perhaps a moderately well funded system with

adequate facilities and sound buildings could accommodate a significant influx of students with modest (\$300 per lot) mitigation.

However, ~~the~~ fragile, overstressed, underfunded school system in Florence will need significant and substantial mitigation if it is to continue functioning under the current constraints.

Although Aspen Springs is not responsible for the current state of the Florence-Carlton Schools, they need to recognize that the environment in the schools is just as fragile as the wildlife, water, and air quality, if not more so. The system as it is today (and ~~for~~ the foreseeable future) will require more than token mitigation to survive the impact of this subdivision.

Our educational environment, that is, our children, are at greatest risk. If a subdivision is to be built in the Florence-Carlton District, mitigation cannot be based on "average contributions", but must be in keeping with the expected catastrophic impact in this specific community.

435 One Horse Creek Rd.  
Florence, MT 59833

Sincerely,  
Nadine M. Wisniewski, PhD  
Nadine M. Wisniewski

# PUBLIC HEARING/MEETING SIGN-IN SHEET

Please write legibly.

DATE: 6/22/06

SUBDIVISION: Aspen Springs

NAME	CONTACT INFORMATION
Sarah McMillan	728-5096 P.O. Box 7435, Mula <sup>5982</sup>
Candi Jerte	273-0002 3430 One Horse
SHAUN McELHANN	
Steve Hall	273-7844
Cheryl Holden Rice	777-3803
Chris Lipke/Kou	239-6771
Wendell Baumberger	213-0607
Richard Velez	273-9098
John Cashin	777-7200
Gleny Kinsley	777-3209
Jan Carlton	777-5347
Cheryl Harkin	777-4455
D. Norton	39 Steer Creek Rd. Stearns
LEE KIERCE Architect	Hamilton 363-0157
Jon Meredith	777-2940 Florence
MARGARET HAMMERBERG	163 8 MILE CK RD 273-0993
Nandie Trice	Javer Wood Creek Rd Florence 273-3343
Scott Bloom	134 Dry Gulch Rd 777-3194
Allison Kinney	777-4017
GOTT HOLLENBECK	728-8850 1200 S. Reserve St Mula
Leb Wittenet	529-4806 Pole Florence

# PUBLIC HEARING/MEETING SIGN-IN SHEET

Please write legibly.

DATE: 8/22/06

SUBDIVISION: Aspen Springs

NAME	CONTACT INFORMATION
Sharon Schroeder	19500 Lower Woodchuck Florence
Grace Wilson	777-2371
Kathleen Driscoll	363-2233 / Driscoll / Driscoll, next
Marilyn Own Medicine	4981 Wagon Trl, Stevensville 777-4475
Gaye Knox	961-6945
GARY T. HAAS	777-9825 239-6302
LaRue Moorhouse	642-3935
Marcia Bloom	777-3194
Roxie Liphart	777 3035
BILL McSPADEN	273-6474
John C. McLee	273-9872
Dave Curtiss WBD	327-4965
Tatcy Turk	777-0006
Christa Burns	273-9870
Linda Cardenas	777-0716
Madame Wisniewski	273-3611 435 One Horse Creek Rd Florence
Matthew Piedalue	239-9182
Robert Memmer	777-2985
Tim Rokosch	463 Ridge Rd, Stevi 777-2511
Karl E. Lupo	572 Pet Lane Stevensville

# SIGN-IN SHEET

**Please write legibly.**

DATE: 22 Aug 06

SUBDIVISION: ASPEN SPRINGS

[illegible]